THE UNIVERSITY OF MICHIGAN
JAN 9 1964
MAIN READING ROOM

Pages 14545–14842

PART II

FEDERAL REGISTER

VOLUME 28 NUMBER 252

Washington, Tuesday, December 31, 1963

Bureau of Customs

Department of the Treasury

Republication of Regulations

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

REPUBLICATION OF CHAPTER

Chapter I of Title 19, because of the numerous amendments, is republished in its entirety for convenience. This republication includes all amendments which have been published in the FEDERAL REGISTER to date.

Part

1 Customs districts, ports and stations.
2 Measurement of vessels.
3 Documentation of vessels.
4 Vessels in foreign and domestic trades.
5 Customs relations with contiguous foreign territory.
6 Air commerce regulations.
7 Customs relations with insular possessions and Guantanamo Bay Naval Station.
8 Liability for duties; entry of imported merchandise.
9 Importations by mail.
10 Articles conditionally free, subject to a reduced rate, etc.
11 Packing and stamping; marking; trademarks and trade names; copyrights.
12 Special classes of merchandise.
13 Examination and measurement of certain products.
14 Appraisement.
15 Relief from duties on merchandise lost, stolen, destroyed, injured, abandoned, or short-shipped.
16 Liquidation of duties.
17 Protests and reappraisements.
18 Transportation in bond and merchandise in transit.
19 Customs warehouses and control of merchandise therein.
20 Disposition of unclaimed and abandoned merchandise.
21 Cartage and lighterage.
22 Drawback.
23 Enforcement of customs and navigation laws.
24 Customs financial and accounting procedure.
25 Customs bonds.
26 Disclosure of information.
30 Foreign-trade zones.
31 Customhouse brokers.
32 Trade Fairs.
54 Certain importations temporarily free of duty.
56 Extensions of time pursuant to Proclamation of the President under section 318, Tariff Act of 1930.

PART 1—CUSTOMS DISTRICTS, PORTS AND STATIONS

Sec.

1.1 Customs collection districts and ports.
1.2 Customs stations; requirements for transaction of customs business at places other than ports of entry.
1.3 Customs offices in foreign countries.
1.4 Assignment of districts to comptrollers of customs.
1.5 Customs agency districts.
1.6 Headquarters of appraisers of merchandise.
1.7 Customs laboratories.
1.8 Hours of business.
1.9 Customs seal.

AUTHORITY: §§ 1.1 to 1.9 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 1.1 Customs collection districts and ports.

(a) A customs collection district is the geographical area under the customs jurisdiction of a collector of customs.

(b) The terms "port" and "port of entry," as used in the regulations in this part, refer to any place designated by Executive order of the President,[1] by order of the Secretary of the Treasury,[1] or by act of Congress, at which a customs officer is assigned with authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws.

[1] "The President is authorized from time to time, as the exigencies of the service may require, to rearrange, by consolidation or otherwise, the several customs-collection districts and to discontinue ports of entry by abolishing the same or establishing others in their stead: *Provided*, That the whole number of customs-collection districts, ports of entry, or either of them, shall at no time be made to exceed those established and authorized as on August 1, 1914, except as the same may thereafter be provided by law * * *." (Sec. 1, 38 Stat. 623, as amended; 19 U.S.C. 2)

By virtue of the authority vested in him by section 1 of the act of August 8, 1950 (64 Stat. 419), the President, by Executive Order 10289, dated September 17, 1951 (3 CFR, 1951 Supp., p. 469), delegated to the Secretary of the Treasury the authority theretofore vested in the President by section 1 of the act of August 1, 1914, as amended (19 U.S.C. 2), (1) to rearrange, by consolidation or otherwise, the several customs-collection districts, (2) to discontinue ports of entry by abolishing the same and establishing others in their stead, and (3) to change from time to time the location of the headquarters in any customs-collection district as the needs of the service may require.

(c) There are 46 customs collection districts of the United States.[2] The following is an alphabetical list of customs collection districts with their numbers and with a list of the ports in each district.[3] The first-named port in each district (in capital letters) is the headquarters port, and the asterisk preceding the name of a port indicates that marine documents may be issued at such port.[4] The districts and ports were created by the President's message of March 3, 1913, by which he communicated to Congress his reorganization of the Customs Service pursuant to the act of August 24, 1912 (Secs. 1, 2, 3, 44 Stat. 1381, as amended, 1382; 5 U.S.C. 281–281b), except that certain changes in such organization have been made by subsequent orders of the President or the Secretary of the Treasury. In the following list the orders issued since March 3, 1913, that affect existing districts or ports are cited in parentheses following the name of the district or port affected.

[2] This does not include the customs collection district of the Virgin Islands which, although under the jurisdiction of the Secretary of the Treasury, has its own customs laws. (See sec. 36, 49 Stat. 1816; 48 U.S.C. 1406i)

[3] In addition to the customs collection districts listed which are within the customs territory of the United States, there is the customs collection district of the Virgin Islands (No. 51), the headquarters port of which is Charlotte Amalie, St. Thomas, and the subports of which are Cruz Bay, Coral Bay, Christiannsted, and Frederiksted.

[4] Marine documents may be issued at Charlotte Amalie, St. Thomas, headquarters port of the customs collection district of the Virgin Islands (No. 51); at Washington, N.C., a customs station in the customs collection district of North Carolina (No. 15); at Biloxi, Miss., a customs station in the customs collection district of Mobile (No. 19); and at Houma, La., a customs station in the customs collection district of New Orleans (No. 20). Marine documents may also be issued at the Commercial Port of Guam, under the supervision of the collector of customs at Honolulu, Hawaii. Although the status of the port of Newark, N.J., was changed by T.D. 53786 to provide that it shall be operated as an integral part of the port of New York, N.Y., in the Customs Collection District of New York (No. 10), marine documents may continue to be issued at that port.

District No.	Name of district	Area of district	Ports of entry
31	Alaska	The State of Alaska	*JUNEAU. Anchorage, Alaska (T.D. 55295). Fairbanks (E. O. 8064, Mar 9, 1939; 4 F. R. 1191) *Ketchikan (including territory described in T. D. 53738). Pelican (E. O. 10238, Apr. 27, 1951; 16 F. R. 3627). Petersburg (E. O. 4132, Jan. 24, 1925). Sand Point (T. D. 53514). *Sitka (E. O. 4517, Oct. 2, 1926; including territory described in T. D. 55609). Skagway. *Wrangell. Kodiak, Alaska (T.D. 55206).
26	Arizona	The State of Arizona	NOGALES (E. O. 9382, Sept. 25, 1943; 8 F. R. 13083). Douglas (E. O. 9382, Sept. 25, 1943; 8 F. R. 13083). Naco. San Luis (E. O. 5322, Apr. 9, 1930). Sasabe (E. O. 5608, Apr. 22, 1931). Lukeville (E. O. 8624, Dec. 31, 1940; 6 F. R. 13) (E. O. 10088, Dec. 3, 1949; 14 F. R. 7287).
9	Buffalo	The counties of Niagara, Erie, Cattaraugus, and Chautauqua in the State of New York.	*BUFFALO, New York (including territory described in T.D. 54867).
39	Chicago (E. O. 8225, Aug. 24, 1939; 4 F. R. 3721) (E. O. 9297, Feb. 1, 1943, 8 F. R. 1479) (E. O. 9531, Mar. 15, 1945, 10 F. R. 2951).	The State of Illinois lying north of 39° north latitude, that part of the State of Indiana north of 41° north latitude, the State of Iowa and the State of Nebraska.	Niagara Falls (including Lewiston) (E O 5320, Apr. 7, 1930). *CHICAGO, ILL. (including territory described in T. D. 54137). *Peoria, Ill. *Omaha, Nebr. (including territory described in E. O. 9297, Feb. 1, 1943; 8 F. R. 1479).
47	Colorado (E. O. 9531, Mar. 15 1945, 10 F. R. 2951).	The State of Colorado and the State of Wyoming	DENVER.
6	Connecticut	The State of Connecticut	*BRIDGEPORT *Hartford. *New Haven. *New London (including municipality of Groton) (E. O. 10238, Apr. 27, 1951; 16 F. R. 3627).
34	Dakota	The States of North and South Dakota and the county of Kittson in the State of Minnesota.	*PEMBINA, N. DAK. Ambrose, N. Dak. (E. O. 5835, Apr. 13, 1932). Antler, N. Dak. Carbury, N. Dak. (E. O. 5137, June 17, 1929). Dunseith, N. Dak. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Fortuna, N. Dak. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Hannah, N. Dak. Hansboro, N. Dak. Maida, N. Dak. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Neche, N. Dak. Noonan, N. Dak. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Northgate, N. Dak. Noyes, Minn. (E. O. 5835, Apr. 13, 1932) Portal, N. Dak. Sarles, N. Dak. Sherwood, N. Dak. St. John, N. Dak. (E. O. 5835, Apr. 13, 1932). Walhalla, N. Dak. Westhope, N. Dak. (E. O. 4236, June 1, 1925).
36	Duluth and Superior	The State of Minnesota, except the county of Kittson, lying north of 46° north latitude, the State of Wisconsin lying north of said latitude, and the island of Isle Royale in the State of Michigan.	*DULUTH, MINN., and SUPERIOR, WIS. (including territory described in T. D. 55904. Ashland, Wis. Baudette, Minn. (E. O. 4422, Apr. 19, 1926). Grand Portage (T.D.56073). International Falls-Ranier, Minn. (T. D. 53738). Pine Creek, Minn. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Roseau, Minn. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Warroad, Minn.
24	El Paso (E. O. 2702, Sept. 7, 1917)	That part of the State of Texas lying west of the Pecos River.	EL PASO, TEX. (T. D. 54166, T. D. 54407). Fabens, Tex. (E. O. 4869, May 1, 1928). Presidio, Tex. (E. O. 2702, Sept. 7, 1917).
18	Florida	The State of Florida, the north bank of the St. Marys River, and the city of St. Marys, Ga.	*TAMPA (including Port Tampa and Port Tampa City; T. D. 53514). *Apalachicola. Bocagrande. Carrabelle (E. O. 7508, Dec. 11, 1936; 1 F. R. 2149). *Fernandina Beach (including St. Marys, Ga.) (T. D. 53033, June 27, 1952; 17 F. R. 5982). *Jacksonville (including territory described in T. D. 54476). *Key West (including territory described in T. D. 53994). *Miami (including territory described in T. D. 53514). Panama City (E. O. 3919, Nov. 1, 1923). *Pensacola. Port Canaveral, Florida (T. D. 55333, including territory described in T. D. 55666). Port Everglades (E. O. 5770, Dec. 31, 1931) (including territory described in T. D. 53514). Port St. Joe (E. O. 7818, Feb. 17, 1938; 3 F. R. 503). St. Augustine. St. Petersburg (E. O. 7928, July 14, 1938; 3 F. R. 1749 including territory described in T. D. 53994). *West Palm Beach (E. O. 4324, Oct. 15, 1925) (T. D. 52409, Feb. 13, 1950; 15 F. R. 861) (including territory described in T. D. 53514).
22	Galveston (E. O. 2702, Sept. 7, 1917) (E. O. 8288, Nov. 22, 1939; 4 F. R. 4691).	That part of the State of Texas lying east of 97° west longitude, except territory, embraced in district 21 (Sabine). Also those portions of the counties of Dallas, Aransas, and Refugio, lying west of 97° west longitude and the counties of Tarrant, San Patricio, and Nueces, State of Texas.	*GALVESTON (including Port Bolivar and Texas City). *Corpus Christi (E. O. 8288, Nov. 22, 1939; 4 F. R. 4691). Dallas. Fort Worth, Texas (T. D. 55792). Freeport (E. O. 7632, June 15, 1937; 2 F. R. 1042). *Houston (including territory described in T. D. 54409).
17	Georgia	The State of Georgia, except the north shore of the St. Marys River and the city of St. Marys, Ga.	*SAVANNAH (including territory described in E. O. 8367, Mar. 5, 1940; 5 F. R. 985). Atlanta (including territory described in T. D. 55548). *Brunswick.
32	Hawaii	The State of Hawaii	*HONOLULU (T. D. 53514). Hilo. Kahului.
40	Indiana	The State of Indiana lying south of 41° north latitude	Port Allen (E. O. 4385, Feb. 25, 1926). INDIANAPOLIS. *Evansville.
42	Kentucky	The State of Kentucky	Lawrenceburg (including Greendale) (E. O. 6634, Mar. 7, 1934). *LOUISVILLE.

District No.	Name of district	Area of district	Ports of entry
23	Laredo (E. O. 8288, Nov. 22, 1939; 4 F. R. 4691).	That part of the State of Texas lying west of 97° west longitude and east of the Pecos River except the territory included in district 22 (Galveston).	LAREDO. *Brownsville, Texas (including territory described in T.D. 54900) Del Rio. Eagle Pass. Hidalgo. Rio Grande City. Roma. San Antonio.
27	Los Angeles (E. O. 3220, Feb. 2, 1920) (E. O. 3779, Jan. 26, 1923) (E. O. 4543, Nov. 13, 1926) (T. D. 55895).	That part of the State of California lying south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, except the counties of San Diego and Imperial, and that part of the State of Nevada comprising Clark County.	*LOS ANGELES (including territory described in T. D. 55341). Port San Luis.
1	Maine and New Hampshire (E. O. 4709, Aug. 19, 1927).	The State of Maine and the State of New Hampshire except the county of Coos.	*PORTLAND, MAINE (including territory described in E. O. 9297, Feb. 1, 1943; 8 F. R. 1479). *Bangor, Maine (including Brewer, Maine) (E. O. 9297, Feb. 1, 1943; 8 F. R. 1479). *Bar Harbor, Maine (including Mt. Desert Island, the city of Ellsworth, and the townships of Hancock, Sullivan, Sorrento, Gouldsboro, and Winter Harbor) (E. O. 4572, Jan 27, 1927). *Bath, Maine (including Booth Bay and Wiscasset) (E. O. 4356, Dec. 15, 1925). *Belfast, Maine (including Searsport) (E. O. 6754, June 28, 1934). Bridgewater, Maine (E. O. 8079, Apr. 4, 1939; 4 F. R. 1475). *Calais, Maine (including townships of Calais, Robbinston, and Baring (E. O. 6284, Sept. 13, 1933). *Eastport, Maine (including Lubec and Cutler) (E. O. 4296, Aug. 26, 1925). Fort Fairfield, Maine. Fort Kent, Maine. Houlton, Maine (E. O. 4156, Feb. 14, 1925). Jackman, Maine (including the townships of Jackman, Sandy Bay, Bald Mountain, Holeb, Attean, Lowelltown, Dennistown, and Moose River) (T. D. 54683). *Jonesport, Maine (including the towns (townships) of Beals, Jonesboro, Roque Bluffs, and Machiasport) (E. O. 4296, Aug. 26, 1925, E. O. 8695, Feb. 25, 1941). Limestone, Maine. Madawaska, Maine. *Portsmouth, N. H. (including Kittery, Maine). *Rockland, Maine. Van Buren, Maine. Vanceboro, Maine.
13	Maryland (E. O. 3234, Feb. 27, 1920).	The State of Maryland and the District of Columbia	*BALTIMORE, MD. (including territory described in T.D. 55020). *Annapolis, Md. *Cambridge, Md. (E. O. 3588, Aug. 13, 1923). *Crisfield, Md. *Washington, D. C.
4	Massachusetts	The State of Massachusetts	*BOSTON (including Cambridge, Chelsea, Medford, Everett, Quincy, Somerville, Braintree, Weymouth and Hingham, and waters adjacent thereto) (E. O. 3847, May 16, 1923) (E. O. 5096, Apr. 19, 1929). *Fall River (including territory described in T. D. 54476). *Gloucester. Lawrence (including the township of North Andover, County of Essex) (E. O. 5444, Sept. 16, 1930) (E. O. 10088, Dec. 3, 1949; 14 F. R. 7287). *New Bedford. *Plymouth. *Salem (including Beverly, Marblehead, Lynn, and Peabody) (E. O. 9207, July 29, 1942). Springfield. Worcester.
38	Michigan	The State of Michigan except the island of Isle Royale and the city of Menominee, Mich.	*DETROIT (including territory described in E. O. 9073, Feb. 25, 1942; 7 F. R. 1588; and T. D. 53738). *Muskegon (E. O. 8315, Dec. 22, 1939; 4 F. R. 4941). *Port Huron (including territory described in T. D. 53576). Saginaw-Bay City (T. D. 53738). *Sault Ste. Marie. South Haven (E. O. 7632, June 15, 1937; 2 F. R. 1042).
35	Minnesota	The State of Minnesota lying south of 46° north latitude	*MINNEAPOLIS (E. O. 4295, Aug. 26 1925), including the territory described in T. D. 53033 (T. D. 53033, June 27, 1952; 17 F. R. 5982). St. Paul (E. O. 4295, Aug. 26, 1935) (E. O. 7564, Feb. 27, 1937; 2 F. R. 462).
19	Mobile	The State of Alabama and that part of the State of Mississippi lying south of 31° north latitude.	*MOBILE, ALA. (including that portion of Blakeley Island lying south of the Cochrane Bridge and west of the Cochrane Bridge Causeway; Pinto Island; and the area comprising the Brokley Air Field) (E. O. 10042, Mar. 10, 1949; 14 F. R. 1155). Birmingham, Ala. *Gulfport, Miss. *Pascagoula, Miss.
33	Montana and Idaho	The States of Montana and Idaho	*GREAT FALLS, MONT. Del Bonita, Mont. (E. O. 7947, Aug. 9, 1938; 3 F. R. 1968). Eastport, Idaho. Morgan, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Opheim, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Piegan, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Porthill, Idaho. Raymond, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Roosville, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Scobey, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Sweetgrass, Mont. Turner, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Whiteall, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Whitlash, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042).
50	New Mexico (T. D. 54166)	The State of New Mexico	Columbus, N. Mex.
20	New Orleans	The State of Louisiana except the parishes of Cameron and Calcasieu, and that part of the State of Mississippi lying north of 31° north latitude.	Morgan City, La. (including territory described in T. D. 54682). *NEW ORLEANS, LA. (including territory described in E. O. 5130, May 29, 1929). *Baton Rouge, La. (E. O. 5993, Jan. 13, 1933) (including territory described in T. D. 53514 and T. D. 54381). *Greenville, Miss. (T. D. 55697 including the territory described in T. D. 55829).

District No.	Name of district	Area of district	Ports of entry
10	New York	That part of the State of New York not expressly included in the districts of Buffalo, Rochester, and St. Lawrence, and also the counties of Sussex, Passaic, Hudson, Bergen, Essex, Union, Middlesex, and Monmouth in the State of New Jersey.	*NEW YORK, N. Y. (including territory described in E. O. 4205, Apr. 15, 1925) (T. D. 53786). *Albany, N. Y. *Perth Amboy, N. J.
15	North Carolina	The State of North Carolina.	*WILMINGTON (including townships of Northwest, Wilmington, and Cape Fear and that portion of the Township of Masonboro, County of New Hanover, lying west o. 77°55', west longtude) (E. O. 7761, Dec. 3, 1937; 2. F. R. 2679) (E. O. 10042, Mar. 10, 1949; 14 F. R. 1155). *Beaufort-Morehead City (T. D. 55637). Durham (E. O. 4876, May 3, 1928) (E. O. 9433, Apr. 6, 1944, 9 F. R. 3761). *Elizabeth City. Elkin (E. O. 10042, Mar. 10, 1949; 14 F. R. 1155). Reidsville (E. O. 5159, July 18 1929) (E. O. 9433, Apr. 1944, 9 R. F. 3761). Winston-Salem (E. O. 2366, Apr. 24, 1916).
41	Ohio	The State of Ohio, and the county of Erie in the State of Pennsylvania.	*CLEVELAND, OHIO (including territory described in T. D. 54734). Akron, Ohio (E. O. 4597, Feb. 25, 1927). Ashtabula, Ohio. *Cincinnati, Ohio. Columbus, Ohio. Conneaut, Ohio. Dayton, Ohio. *Erie, Pa. *Sandusky, Ohio. *Toledo, Ohio (including territory described in T. D. 54137).
29	Oregon (E. O. 2307, Feb. 7, 1916)	The State of Oregon and that part of the State of Washington which embraces the waters of the Columbia River and the north bank of the said river west of 119° west longitude.	*PORTLAND, OREG. (including territory described in E. O. 3390, Jan. 24, 1921, E. O. 5193, Sept. 14, 1929, and the territory described in T. D. 53033) (T. D. 53033, June 27, 1952; 17 F. R. 5982). *Astoria, Oreg. (E. O. 5193, Sept. 14, 1929). Longview, Wash. (E. O. 4956, Aug. 31, 1928) (including territory described in E. O. 5193, Sept. 14, 1929, and T. D. 53514). *Coos Bay (E. O. 4094, Oct. 28, 1924) (E. O. 5193, Sept. 14, 1929) (E. O. 5445, Sept. 16, 1930) (E. O. 9533, Mar. 23, 1945, 10 F. R. 3173). Newport, Oreg.
11	Philadelphia	That part of the State of Pennsylvania lying east of 79° west longitude, the State of Delaware, and that part of the State of New Jersey not included in district 10 (New York).	*PHILADELPHIA, PA. (including Camden and Gloucester City, N. J., and territory described in E. O. 7840, Mar. 15, 1938; 3 F. R. 687 T. D. 53738 and T. D. 54303). Chester, Pa. (E. O. 7706, Sept. 11, 1937; 2 F. R. 1848). *Wilmington, Del. (E. O. 4496, Aug. 12, 1926) (including territory described in T. D. 54202).
12	Pittsburgh	The State of West Virginia and that part of the State of Pennsylvania lying west of 79° west longitude, except the county of Erie.	*PITTSBURGH, PA.
49	Puerto Rico	The Commonwealth of Puerto Rico.	*SAN JUAN (including territory described in T. D. 54017). Aguadilla. Fajardo. Gulanica. Humacao Jobos (E.O. 9162, May 13, 1942). *Mayaguez (T. D. 52975, Apr. 15, 1952; 17 F. R. 3580). *Ponce (T. D. 52975, Apr. 15, 1952; 17 F. R. 3580) (including territory described in T. D. 54017).
5	Rhode Island	The State of Rhode Island	*PROVIDENCE. *Newport.
8	Rochester (E.O. 5455, Oct. 1, 1930)	The counties of Oswego, Oneida, Onondaga, Cayuga, Seneca, Wayne, Broome, Tompkins, Chenango, Madison, Cortland, Hamilton, Schuyler, Chemung, Herkimer, Monroe, Ontario, Livingston, Yates, Steuben, Orleans, Genesee, Wyoming, Allegany, and Tioga in the State of New York	*ROCHESTER. *Oswego. Sodus Point. Syracuse. Utica.
21	Sabine (E.O. 5392, July 9, 1930)	That part of the State of Texas from Sabine Pass north along State line to north boundary line of Shelby County; west to Neches River; down western shore of said river to north boundary of Jefferson County; westerly along said boundary to east boundary of Liberty County; south to Gulf; also the parishes of Cameron and Calcasieu in the State of Louisiana.	*PORT ARTHUR, TEX. (including territory described in T. D. 54137). *Beaumont, Tex. (E. O. 4502, Sept. 1, 1926) (including territory described in T. D. 54137). *Lake Charles, La. (E. O. 5475, Nov. 3, 1930) (including territory described in T. D. 54137). Orange, Tex. (E. O. 7495, Nov. 14, 1936; 1 F. R. 1867) (including territory described in T. D. 54137). Sabine, Tex (including territory described in T. D. 54137).
26	San Diego (E. O. 3779, Jan. 26, 1923) (E. O. 5350, May 22, 1930).	The counties of San Diego and Imperial in the State of California.	*SAN DIEGO (T. D. 54741). Andrade (E. O 4780, Dec. 13, 1927). Calexico Tecate (E. O. 4780, Dec 13, 1927).
28	San Francisco (E. O. 4543, Nov. 13, 1926) (E. O. 8324, Jan. 22, 1940; 5 F. R. 271) (T. D. 55895).	That part of the State of California lying north of the northern boundaries of the counties of San Luis Obispo, Kern and San Bernardino, and the State of Utah and the State of Nevada, except Clark County.	*SAN FRANCISCO-OAKLAND, CALIF. (including all points on San Francisco Bay, all points on San Pablo Bay, Carquinez Strait, and Suisun Bay, and all points on the San Joaquin River in Contra Costa County, State of California as far as Antioch Bridge) and including territory described in T.D. 56020). (E. O. 10042, Mar. 10, 1949; 14 F. R. 1155 and T. D. 53738). *Eureka, Calif. Note: Collector of customs located at San Francisco.
16	South Carolina	The State of South Carolina	*CHARLESTON (including territory described in T. D. 53994). *Georgetown.
7	St. Lawrence	The counties of Clinton, Essex, Franklin, St. Lawrence, Jefferson, and Lewis in the State of New York.	*OGDENSBURG. Alexandria Bay (including the township of Alexandria, County of Jefferson, and that portion of the township of Orleans, County of Jefferson, lying north of 44°15', north latitude) (E. O. 10042, Mar. 10, 1949; 14 F. R. 1155). *Cape Vincent. Champlain. Chateaugay. Clayton. Fort Covington. Mooers. Morristown. Massena (T.D. 54834). *Rouses Point Trout River (T.D.56074). Waddington.

District No.	Name of district	Area of district	Ports of entry
45	St. Louis (E. O. 3879, June 27, 1923).	The States of Missouri, Kansas, and Oklahoma, and that part of the State of Illinois lying south of 39° north latitude.	*ST. LOUIS, MO. (including East St. Louis, Ill.). *Kansas City, Mo. (including Kansas City, Kans., and North Kansas City, Mo.) (E. O. 8528, Aug. 27, 1940). St. Joseph, Mo.
43	Tennessee (E. O. 3879, June 27, 1923).	The States of Tennessee and Arkansas	*MEMPHIS, TENN. *Chattanooga, Tenn. *Nashville, Tenn.
2	Vermont (E. O. 4709, Aug. 19, 1927).	The State of Vermont and the county of Coos in the State of New Hampshire.	ST. ALBANS, VT. (including township of St. Albans and Swanton) (E. O. 3925, Nov, 13, 1923) (E.O. 7632, June 15, 1937; 2 F. R. 1042). Alburg, Vt. Beecher Falls, Vt. *Burlington, Vt. (including the town of South Burlington) (T. D. 54677). Derby Line, Vt. Highgate Springs, Vt. (including township of Highgate) (E. O. 7632, June 15, 1937; 2 F. R. 1042). Island Pond, Vt. Newport, Vt. North Troy, Vt. Richford, Vt.
14	Virginia (E.O. 3234, Feb. 27, 1920).	The State of Virginia	*NORFOLK and *NEWPORT NEWS (including the waters and shores of Hampton Roads). *Alexandria. *Cape Charles City. Petersburg. *Reedville. Richmond.
30	Washington (E.O. 2307, Feb. 7, 1916).	The State of Washington except that part which embraces the waters of the Columbia River and the north bank of the said river west of 119° west longitude.	*SEATTLE (including territory described in T. D. 53576). *Aberdeen. Anacortes (including territory described in T. D. 53861). *Bellingham (including territory described in T. D. 53738). Blaine (E. O. 5835, Apr. 13, 1932). Danville. Everett. Ferry. Friday Harbor (E. O. 9433, Apr. 6, 1944, 9 F. R. 3761). Laurier. Lynden (E. O. 7632, June 15, 1937; 2 F. R. 1042). Metaline Falls (E. O. 7632, June 15, 1937; 2 F. R. 1042). Neah Bay (E. O. 10088, Dec. 3, 1949; 14 F. R. 7287). Nighthawk. Northport. Olympia (E. O. 4780, Dec. 13, 1927). Oroville (E. O. 5206, Oct. 11, 1929). *Port Angeles. *Port Townsend. South Bend-Raymond (T. D. 53576). Spokane. Sumas. *Tacoma.
37	Wisconsin	The State of Wisconsin lying south of 46° north latitude, and the city of Menominee, Mich.	*MILWAUKEE. Green Bay (including the townships of Ashwaubenon, Allouez, Preble, and Howard, and the city of De Pere) (T. D. 54597). Manitowoc. Marinette (including Menominee, Mich.). Racine (including the city of Kenosha and the townships of Mt. Pleasant and Somers). (T.D. 54884). Sheboygan.

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended, sec. 7, 70 Stat. 949; 19 U.S.C. 1, 2 and note)

§ 1.2 Customs stations; requirements for transaction of customs business at places other than ports of entry.

(a) Places, other than ports of entry, at which customs officers or employees are stationed under the authority contained in article IX of the President's message referred to in § 1.1[5] to enter and clear vessels, accept entries of merchandise, collect duties, and enforce the various provisions of the customs and navigation laws shall be known as customs stations.

(b) A vessel shall not be entered or cleared at a customs station, or other place that is not a port of entry, unless entry or clearance is authorized by the collector of customs for the district in which such station or place is located pursuant to the provisions of section 447, Tariff Act of 1930.[6] Such authorization shall be granted by the collector or assistant collector only upon the condition that the vessel will be under such customs supervision as he may deem to be necessary; that compliance will be had with all applicable customs and navigation laws and regulations; that the salary and expenses of the customs officer for such time as is required to be devoted to entry and clearance work, together with any expense incurred by such officer in connection with the entry or delivery of merchandise, shall be reimbursed to the Government as provided in paragraph (c) of this section; and that the collector or assistant collector shall be notified in advance of the arrival of the vessel concerned.

(c) The salary and expenses of a customs officer or employee stationed at or sent to a customs station or other place which is not a port of entry for service in connection with the entry or clearance of a vessel shall be reimbursed to the Government by the owner, master, or agent of the vessel. Except as otherwise provided for in this part, the expenses, including any per diem allowed in lieu of subsistence, but not the salary, of such customs officer or employee for service in connection with the entry or delivery of merchandise shall be reimbursed to the Government by the interested persons.

(d) The customs stations,[6a] and the ports of entry having supervision thereof, are listed below:

District No.	Customs station	Port of entry having supervision
1	Bucksport, Maine	Belfast.
	Coburn Gore, Maine	Jackman.
	Hamlin, Maine	Van Buren.
2	Alburg Springs, Vt	Alburg.
	Beebe Plaine, Vt	Derby Line.
	Canaan, Vt	Beecher Falls.
	East Richford, Vt	Richford.
	Morses Line, Vt	Do.
	Norton, Vt	Island Pond.
	Pittsburg, N.H	Beecher Falls.
	West Berkshire, Vt	Richford.
4	Provincetown, Mass	Plymouth.
7	Cannons Corners, N. Y	Mooers.
	Churubusco, N. Y	Chateaugay.
7	Hogansburg, N. Y	Rooseveltown.
	Jamieson's Line, N. Y	Malone.
	Trout River, N. Y	Do.
11	Atlantic City, N. J	Philadelphia.
	Lewes, Del	Do.
	Port Norris, N. J	Do.
	Tuckerton, N. J	Do.
13	Salisbury, Md	Baltimore.
15	Washington, N.C	Wilmington.
19	Biloxi, Miss	Mobile.
20	Gramercy, La	New Orleans.
	Houma, La	Morgan City.
23	Falcon Dam, Tex	Roma.
	Los Ebanos, Tex	Hidalgo.
	Progreso, Tex	Do.
	San Ygnacio, Tex	Laredo.
24	Marathon, Tex	El Paso.
25	Campo, Calif	Tecate.
26	Lochiel, Ariz. (Mail: Nogales).	Nogales.
	Tuscon, Ariz	Do.
27	Port Hueneme, Calif	Los Angeles.
28	Monterey, Calif	San Francisco.
30	Point Roberts, Wash	Blaine.
31	Annette Island, Alaska	Ketchikan.
	Eagle, Alaska	Fairbanks.
	Haines, Alaska	Skagway.
	Hyder, Alaska	Ketchikan.
	Tok, Alaska	Fairbanks.
33	Havre, Mont	Great Falls.
34	Grand Forks, N. Dak	Pembina.
	Lancaster, Minn	Noyes.
36	Crane Lake, Minn	Duluth.
	Ely, Minn	Do.
	Oak Island, Minn	Warroad.
38	Algonac, Mich	Port Huron.
	Alpena, Mich	Saginaw.
	Detour, Mich	Sault Ste. Marie.
	Escanaba, Mich	Do.
	Grand Haven, Mich	Muskegon.
	Houghton, Mich	Sault Ste. Marie.
	Mackinac Island	Do.
	Marine City, Mich	Port Huron.
	Marquette, Mich	Sault Ste. Marie.
	Roberts Landing, Mich. (Mail: Route 1, Algonac, Mich.).	Port Huron.
	Rogers City	Saginaw-Bay City.
	St. Clair, Mich	Port Huron.
41	Fairport, Ohio	Cleveland.
	Huron, Ohio	Sandusky.
	Lorain, Ohio	Cleveland.
	Marblehead-Lakeside, Ohio	Sandusky.
	Put-in-Bay, Ohio	Do.
50	Antelope Wells, N. Mex. (Mail: Hachita, N. Mex.).	Columbus.

(President's Message of March 3, 1913; T. D. 33249.)

§ 1.3 Customs offices in foreign countries.

There are listed below the places in foreign countries where United States customs officers are stationed, the customs districts under which they function, and the comptrollers of customs having jurisdiction over such district:

Customs office	Customs district having supervision	Comptroller having supervision
St. John, New Brunswick (winter).	Maine and New Hampshire.	Boston, Mass.
Montreal, Quebec	Vermont	Do.
Toronto, Ontario	Buffalo	New York, N.Y.
Kindley Field, Bermuda.	New York	New York, N.Y.
Nassau, Bahama Islands.	Florida	Baltimore, Md.
Vancouver, British Columbia.	Washington	San Francisco, Calif.
Prince Rupert, British Columbia.	Alaska	San Francisco, Calif.
Winnipeg, Manitoba.	Dakota	Chicago, Ill.

(R.S. 161, as amended, 251, sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended; 5 U.S.C. 22, 19 U.S.C. 1, 2)

§ 1.4 Assignment of districts to comptrollers of customs.

Customs districts are assigned to comptrollers of customs as follows:

Comptroller district	Address	Collection districts
1. Boston	Customhouse, Boston, Mass., 02109	1, 2, 4, 5, 6, and 7.
2. New York	Customhouse, New York, N.Y., 10004	10.
3. Philadelphia	Customhouse, Philadelphia, Pa., 19106	8, 9, 11, 12, 38, and 41.
4. Baltimore	Customhouse, Baltimore, Md., 21202	13, 14, 15, 16, 17, 18, 49, and 51.
5. Chicago	Customhouse, Chicago, Ill., 60607	34, 35, 36, 37, 39, 40, 42, 45, and 47.
6. New Orleans	Customhouse, New Orleans, La., 70130	19, 20, 21, 22, 23, 24, 43, and 50.
7. San Francisco	Customhouse, San Francisco, Calif., 94111	25, 26, 27, 28, 29, 30, 31, 32, and 33.

§ 1.5 Customs Agency Service regions.

The Customs Agency Service regions and their respective headquarters are as follows:

---

[5] "Merchandise shall not be entered or delivered from customs custody elsewhere than at one of the ports of entry hereinbefore designated except at the expense of the parties in interest, upon express authority from the Secretary of the Treasury and under conditions to be prescribed by him. When it shall be made to appear to the Secretary of the Treasury that the interests of commerce or the protection of the revenue so require, he may cause to be stationed at places in the various collection districts, though not named as ports of entry, officers or employees of the customs with authority to enter and clear vessels, to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws." (Art. IX, President's message of March 3, 1913; T. D. 33249)

[6] "It shall be unlawful to make entry of any vessel or to unlade the cargo or any part thereof of any vessel elsewhere than at a port of entry: *Provided*, That upon good cause therefor being shown, the Secretary of the Treasury may permit entry of any vessel to be made at a place other than a port of entry designated by him, under such conditions as he shall prescribe: *And provided further*, That any vessel laden with merchandise in bulk may proceed after entry of such vessel to any place designated by the Secretary of the Treasury for the purpose of unloading such cargo, under the supervision of customs officers if the collector shall consider the same necessary, and in such case the compensation and expenses of such officers shall be reimbursed to the Government by the party in interest." (Sec. 447, 46 Stat. 714, as amended; 19 U. S. C. 1447)

[6a] Customs stations designated for a temporary period only and designations made to provide customs facilities where a need exists because of certain large-scale activities, such as lumbering operations, are not listed. These designations change from time to time. Current information as to such stations in any of the collection districts may be obtained from the collector of customs for such district.

No.	Headquarters at—	Area (customs collection districts and foreign countries)
1	New York, N.Y.	1 (Maine and New Hampshire), 2 (Vermont), 4 (Massachusetts), 5 (Rhode Island), 6 (Connecticut), 7 (St. Lawrence), 8 (Rochester), 9 (Buffalo), 10 (New York), 11 (Philadelphia), 12 (Pittsburgh), 13 (Maryland), 14 (Virginia), and that part of the Dominion of Canada lying east of 81° W longitude.
2	Miami, Fla.	15 (North Carolina), 16 (South Carolina), 17 (Georgia), 18 (Florida), 19 (Mobile), 20 (New Orleans), 43 (Tennessee), 49 (Puerto Rico), 51 (Virgin Islands), the Republic of Cuba, the Republic of Haiti, and the Dominican Republic.
3	Houston, Tex.	21 (Sabine), 22 (Galveston), 23 (Laredo), 24 (El Paso), 45 (St. Louis, that part comprising the State of Oklahoma), 47 (Colorado, except the State of Wyoming), 50 (New Mexico), and the Republic of Mexico.
4	Chicago, Ill.	33 (Montana and Idaho), 34 (Dakota), 35 (Minnesota), 36 (Duluth and Superior), 37 (Wisconsin), 38 (Michigan), 39 (Chicago), 40 (Indiana), 41 (Ohio), 42 (Kentucky), 45 (St. Louis, except the State of Oklahoma), 47 (Colorado, that part comprising the State of Wyoming), and that part of the Dominion of Canada lying between 81° W and 117° W longitude.
5	Los Angeles, Calif.	25 (San Diego), 26 (Arizona), 27 (Los Angeles), 28 (San Francisco), 29 (Oregon), 30 (Washington), 31 (Alaska), 32 (Hawaii), and that part of the Dominion of Canada lying west of 117° W longitude.
6	Rome, Italy	Europe, Africa, and the Near East.
7	Tokyo, Japan	The Far East.

§ 1.6 Headquarters of appraisers of merchandise.

The locations of the headquarters of the appraisers of merchandise for the customs collection districts are as follows:

District No.	Name of District	Location of Headquarters	Address of Appraiser of Merchandise
31	Alaska	Juneau, Alaska, 13467	(1)
26	Arizona	Nogales, Ariz., 85621	Terrace Ave. and International St.; P.O. Box 1788.
9	Buffalo	Buffalo, N.Y., 14203	243 Washington St.
39	Chicago	Chicago, Ill., 60607	610 South Canal St.
47	Colorado	Denver, Colo., 80202	Room 24, New Customhouse.
6	Connecticut	Bridgeport, Conn., 06609	120 Middle St.
34	Dakota	Pembina, N. Dak., 58271	202 Federal Bldg.
38	Detroit	Detroit, Mich., 48226	100 West Larned St.
36	Duluth and Superior	Duluth, Minn., 55802	515 West First St.
24	El Paso	El Paso, Tex., 79901	1317 S. El Paso St.
18	Florida	Miami, Fla., 33136	811 N.W. 1st Ave.
22	Galveston	Houston, Tex., 77011	7300 Wingate St.
17	Georgia	Savannah, Ga., 31401	1-3 E. Bay St.
32	Hawaii	Honolulu, Hawaii, 96817	850 Iwilei Road.
40	Indiana	Indianapolis, Ind., 46204	Room 32, Federal Building.
42	Kentucky	Louisville, Ky., 40202	Federal Building.
23	Laredo	Laredo, Tex., 78041	Convent Ave. and Zaragosa St.; P.O. Box 1359.
27	Los Angeles	Los Angeles, Calif., 90013	531 Mateo St.
1	Maine and New Hampshire	Portland, Maine, 04112	Box 583, Pearl St. Station.
13	Maryland	Baltimore, Md., 21202	103 South Gay St.
4	Massachusetts	Boston, Mass., 02210	408 Atlantic Ave.
35	Minnesota	Minneapolis, Minn., 55401	150 U.S. Courthouse.
19	Mobile	Mobile, Ala., 36602	Room 144, U.S. Court House and Customhouse.
33	Montana and Idaho	Great Falls, Mont., 4453	(1)
50	New Mexico	Columbus, N. Mex., 4135	(1)
20	New Orleans	New Orleans, La., 70130	423 Canal St.
10	New York	New York, N.Y., 10014	201 Varick St. [2]
15	North Carolina	Wilmington, N.C., 28402	Rm. 204, Princess and Water Sts.
41	Ohio	Cleveland, Ohio, 44114	215 Superior Ave., N.E.
29	Oregon	Portland, Oreg., 97209	220 N.W. 8th Ave.
11	Philadelphia	Philadelphia, Pa., 19106	2d and Chestnut Sts.
12	Pittsburgh	Pittsburgh, Pa., 15219	7th Ave. and Grant St.
49	Puerto Rico	San Juan, P.R., 00902	Deposito St., Marina; P.O. Box 4712.
5	Rhode Island	Providence, R.I., 02903	24 Weybosset St.
8	Rochester	Rochester, N.Y., 14614	30 Church St.
21	Sabine	Port Arthur, Tex., 2739	(1)
25	San Diego	San Diego, Calif., 92101	1415 6th Ave.
28	San Francisco	San Francisco, Calif., 94111	630 Sansome St.
16	South Carolina	Charleston, S.C., 29401	200 East Bay Street.

[1] The appraiser of merchandise is under the jurisdiction of the collector of customs and is located at the same address as collector. Correspondence for the appraiser shall be sent to the collector—"Attention: Appraiser of Merchandise."

[2] U.S. Appraiser of Merchandise, New York, N.Y.

District No.	Name of District	Location of Headquarters	Address of Appraiser of Merchandise
7	St. Lawrence	Champlain, N.Y., 12919	Room 13, Customhouse.
45	St. Louis	St. Louis, Mo., 63101	1114 Market St.
43	Tennessee	Memphis, Tenn., 38103	Room 249, Customhouse.
2	Vermont	St. Albans, Vt., 05478	56-60 South Main St.
14	Virginia	Norfolk, Va., 23507	1129 Boissevain Ave.
30	Washington	Seattle, Wash., 98104	34 Federal Office Bldg.
37	Wisconsin	Milwaukee, Wis., 53202	628 East Michigan St.

§ 1.7 Customs laboratories.

The addresses of the several customs laboratories and the customs collection districts served thereby are as follows:

Laboratory District No.	Address	Customs Collection Districts
1	103 South Gay Street, Baltimore, Md., 21202.	13, 14, 15, 42, and 43.
2	408 Atlantic Avenue, Boston, Mass., 02210.	1, 2, 4, and 5.
3	Customhouse, Chicago, Ill., 60607.	34, 35, 36, 37, 38, 39, 40, and 45.
4	531 Mateo Street, Los Angeles, Calif., 90013.	24, 25, 26, 27, and 50.
5	Customhouse, New Orleans, La., 70130.	19, 20, 21, 22, and 23.
6	201 Varick Street, New York, N.Y., 10014. Branch Laboratory: Customhouse, San Juan, P.R., 00903.	6, 7, 8, 9, 10, 49, and 51.
7	Customhouse, Philadelphia, Pa., 19106.	11, 12, and 41.
8	630 Sansome Street, San Francisco, Calif., 94111.	28, 29, 30, 31, 32, 33, and 47.
9	Customhouse, Savannah, Ga., 31401.	16, 17, and 18.

§ 1.8 Hours of business.

(a) Except as specified in paragraphs (b)–(g) of this section, each customs office shall be open for the transaction of general customs business between the hours of 8:30 a.m. and 5 p.m. on all days of the year except Saturdays, Sundays, and national holidays.[7]

(b) Different but equivalent hours shall be observed if a difference is required for the maintenance of adequate service because of local conditions, is approved by the Commissioner of Customs, and a notice of the hours of business is prominently displayed at the principal entrance and in each public room of the customs office.

(c) At each port or station where there is no full-time customs employee, the hours during which the customs office will be open for the transaction of general customs business shall be fixed by the collector of customs concerned with the approval of the Commissioner of Customs, and notice thereof shall be displayed prominently at the principal entrance of the office.

(d) Each customs office shall be open for the transaction of general customs business on all state and local holidays occurring on days other than Saturdays, Sundays, and national holidays. If a state or local holiday interferes with the performance of work in a customs office by any customs employee or employees, the principal field officer may request approval of the Commissioner of Customs to excuse such employees from duty without charge to leave.

(e) Customs services required to be performed outside a customs office shall be furnished between the hours of 8 a. m. and 5 p. m. (or between the corresponding hours at ports where different but equivalent hours are required for the maintenance of adequate service and are approved by the Commissioner of Customs) on all days when the customs office is open for the transaction of general customs business. In accordance with such instructions as the Commissioner of Customs shall have issued from time to time and upon reasonable advance notice to the principal local officer concerned, such services may be furnished between the same hours on Saturdays.

(f) Where there is a regularly recurring need for customs services outside

[7] The national holidays are January 1, February 22, May 30, July 4, the first Monday in September, November 11, the fourth Thursday in November, and December 25. If a holiday falls on Sunday, the following day will be observed. (E.O. No. 10358, June 9, 1952.) If a holiday falls on Saturday the day immediately preceding such Saturday will be observed (5 U.S.C. 87c). Other days may be designated as national holidays by Executive Order of the President.

the above prescribed hours

the above prescribed hours, and the volume and duration of the required services are uniformly such as to require, of themselves or in immediately consecutive combination with other essential customs activities of the port, the full time of one or more customs employees, the necessary number of regular tours of duty to furnish such services on all days of the year except Sundays and national holidays may be established with the approval of the Commissioner of Customs.

(g) Customs services shall be furnished private interests otherwise than as specified in this section only in accordance with the provisions of § 24.16 of this chapter.

§ 1.9 Customs seal.

(a) The customs seal of the United States, consisting of the national arms within a circle according to the design furnished by the Treasury Department, shall be impressed upon all official documents requiring the impress of a seal.

(b) The impress of the seal is not necessary on documents passing within the Customs Service. The seal shall be impressed on marine documents, and on landing certificates, certificates of weight, gauge, or measure, and similar classes of documents for outside interests.

(c) The official seal shall not be used in the manner of a notary seal to indicate authority to administer oaths.

PART 2—MEASUREMENT OF VESSELS

Sec.
2.0 Effective date.
2.1 Authority of Commissioner.
2.2 Officials authorized to admeasure vessels.
2.3 Purpose for which measurements are taken.
2.4 Register ton.
2.5 Gross register tonnage.
2.6 Net register tonnage.
2.7 The marine document.
2.8 Application for measurement.
2.9 Drawings.
2.10 Measurements to be taken at an early stage.
2.11 Uniform system required.
2.13 Measuring instruments.
2.14 Stem.
2.15 Stern.
2.16 Masts.
2.17 Ceiling, cargo battens, etc.
2.18 Register length.
2.19 Register breadth.
2.20 Register depth.
2.21 Upper deck to the hull.
2.22 Enumerating the decks.
2.23 Register height.
2.24 Round of beam.
2.25 Pitch of beam.
2.26 Tonnage deck.
2.27 Tonnage length.
2.28 Depth of a transverse section.
2.29 Tonnage depths.
2.30 Tonnage breadths.
2.31 Measuring the tonnage length.
2.32 Divisions of tonnage length.
2.33 Transfer of location of sections to keelson.
2.34 Transverse areas, rule for finding.
2.35 Breaks in double bottom.
2.36 Vessels having side tanks may be measured in parts.
2.37 Outside shaft tunnel.
2.38 Square end vessels having head blocks.
2.39 Between decks.
2.40 Superstructures.
2.41 Hatchways.
2.42 Record of exempted spaces.
2.43 Enclosed spaces exempted from inclusion in gross tonnage.
2.44 Passenger cabins.
2.45 Open superstructures on or above the upper deck.
2.46 Open shelter deck space.
2.47 An open structure on small craft.
2.48 Open vessels.
2.49 Deductions from gross tonnage.
2.50 Navigation spaces.
2.51 Engine room.
2.52 Spaces included in engine room.
2.53 Length of engine room.
2.54 Boilers and engine in same compartment.
2.55 Engine room measured in parts.
2.56 Rule for measuring engine room.
2.57 Engine room in small boats.
2.58 Deduction for propelling power.
2.59 Light and air spaces.
2.60 Verification of calculations, diagram of areas, and certification of results.
2.60a Marking net tonnage and official number on vessel.
2.61 Appendix to certificate of registry.
2.62 Measurement of Government vessels.
2.63 Foreign vessels.
2.64 Adjustment and correction of tonnage.
2.65 Figures.
2.66 Conversion tables.
2.67 Table A of common intervals when tonnage depth is 16 feet or less.
2.68 Table B of common intervals when tonnage depth exceeds 16 feet.
2.69 Definitions of enclosures on or above the upper deck.
2.70 Definitions of items of deduction.
2.71 Definitions of structural terms, etc.
2.72 Suez and Panama Canal certificates.

AUTHORITY: §§ 2.0 to 2.72 issued under R. S. 161, 4153, as amended, secs. 2, 3, 23 Stat. 118, as amended, 119, as amended, sec. 4, 28 Stat. 743, as amended; 5 U. S. C. 22, 46 U.S.C. 2, 3, 77, 79. Additional authority is cited in parentheses following the sections affected.

§ 2.0 Effective date.

The regulations in this part are not retroactive, i.e., they do not apply to vessels the keels of which were laid prior to the date the rules in this part become effective. The regulations in this part become effective March 1, 1940.

§ 2.1 Authority of Commissioner.

(a) The Commissioner of Customs is charged with the supervision of the laws relating to the admeasurement of vessels, and on all questions of interpretation growing out of the execution of the laws relating to this subject his decision is final.

(b) The Commissioner of Customs shall, in the following sections, be referred to as the Commissioner.

(c) Doubts arising in the minds of the admeasurers concerning decks to the hull, enclosures on or above the upper deck, shelter decks, method of procedure, etc., shall be submitted to the Commissioner for his decision, and shall be accompanied by blueprints or sketches of the spaces in question giving all the facts bearing on same.

§ 2.2 Officials authorized to admeasure vessels.

(a) Before any vessel shall be registered, enrolled, or licensed she shall be

measured by an officer of the customs at the port or place where she may be.

(b) A vessel is not to be measured unless she is required by law to be registered, enrolled or licensed, or otherwise specially provided for.

§ 2.3 Purpose for which measurements are taken.

(a) Tonnage measurements are taken for the purpose of ascertaining the internal capacity of measurable spaces.

(b) All measurements are to be taken in feet and fractions of feet, and all fractions of feet shall be expressed in decimals.

§ 2.4 Register ton.

A register ton is a volume of 100 cubic feet.

§ 2.5 Gross register tonnage.

(a) The gross tonnage referred to in the following sections is the gross register tonnage; that is, the gross tonnage exclusive of all permissible exempted spaces.

(b) The gross register tonnage of a vessel shall consist of the sum of the following items:

(c) The cubical capacity below the tonnage deck, excluding exemptible water ballast spaces within the measureable portion of the vessel;

(d) The cubical capacity of each between deck space above the tonnage deck;

(e) The cubical capacity of the permanent closed-in spaces on the upper deck available for cargo or stores, or for the accommodation of passengers and/or crew;

(f) All permanent closed-in spaces situated elsewhere available for cargo or stores, or for the accommodation of the crew, or for the charts, except cabins or staterooms for passengers constructed entirely above the first deck which is not a deck to the hull;

(g) The excess of hatchways.

§ 2.6 Net register tonnage.

(a) The tonnage of a vessel remaining after the authorized deductions have been made from the gross register tonnage shall be deemed the net register tonnage.

(b) In ascertaining the net tonnage no space may be deducted unless it has previously been included in the gross tonnage and certified, showing the purpose for which used.

§ 2.7 The marine document.

The marine document of every vessel shall show the date and place of build; the register length, breadth, depth, and, in vessels of more than two decks, the height of the upper deck to the hull above the tonnage deck; the number of decks and masts; build as to her stem and stern; capacity under the tonnage deck, that of the between decks, and also separately, permanently enclosed spaces on or above the upper deck to the hull available for cargo or stores or for the accommodation of passengers (provisionally) or crew, and the omitted spaces, whether open or closed in, on, above, or below the upper deck; the gross tonnage; items of deduction; and net tonnage.

§ 2.8 Application for measurement.

The builder of a new vessel required to be admeasured, or the person having supervision of changes and/or alterations affecting a vessel's register tonnage, is obliged to make application for admeasurement or tonnage adjustment as the case may be, in writing, to the collector of customs of the district in which the vessel is located. Such application shall be made before cargo or ballast is taken on, and in case of a new vessel, before boilers or engine is installed or compartments partitioned off.

§ 2.9 Drawings.

(a) *Plans to be filed.* In order to facilitate admeasurement, there shall be furnished by the vessel's builder or owner to the collector of customs for the district in which the vessel will be admeasured, either with the application for admeasurement or a reasonable period before admeasurement is scheduled to commence, blueprints or drawings of the following:

(1) A drawing of the cross section in which is shown the construction of the double bottom, if there be one;

(2) An inboard view of the longitudinal section, showing the double bottom, its use or uses, if existing, otherwise the floors, the compartments for water ballast, other than the double bottom, the decks, the superstructures, hatchways, etc.;

(3) Deck plans showing the arrangement and uses of different compartments and deductible spaces;

(4) Drawings showing the arrangement of the engine, boiler, and fuel compartments; and

(5) A tonnage plan showing half breadths of the sections at the points of division of the tonnage length of the vessel into a certain number of equal parts in accordance with the rules for the measurement of spaces under the tonnage deck. The scale or scales of these drawings are to be indicated thereon.

The collector of customs is to be advised of any subsequent changes in the vessel and furnished copies of the corrected plans, or a statement of such changes.

If there are no blueprints or drawings available and if the collector is satisfied that it is impracticable to require such plans to be prepared and made available, considering the size and nature of the vessel as well as the cost and time involved, the vessel shall be measured without requiring their production.

(b) *Sketches.* When blueprints or drawings are not produced, necessary rough sketches may be made during the course of admeasurement showing the inboard profile, the midship cross-section, the hull and deck arrangements, and related matters, recording any necessary dimensions and showing details of important features such as the depth of side and bottom frames or floor timbers; the dimensions, location, and use of structures and hull spaces; and the thickness of the inner and outer skin. Such rough sketches shall be retained and filed with the other admeasurement papers. The rough sketches made shall not be redrawn to scale unless the admeasurer is satisfied that such action is necessary to insure that accurate dimensions have been lifted, to avoid the necessity for readmeasurement, or to insure against a claim of error which may reasonably be expected to be made in a particular case by the owner or agent.

§ 2.10 Measurements to be taken at an early stage.

Admeasurement should begin as soon as the vessel is sufficiently advanced in construction to permit its being done, usually when the decks are laid, the hold cleared of encumbrances to admit the required depths and breadths being properly taken; before the engine and boilers are installed and accommodations are partitioned off.

§ 2.11 Uniform system required.

(a) The following directions are given showing the progressive steps to be followed in the process of admeasurement. It is important not only that the rules be followed, but that required measurements be taken and calculations made in a uniform and correct manner that one general system may prevail throughout the service respecting this subject.

(b) Measurements taken aboard are to be recorded in the "Memorandum of Dimensions" known as Form 1413.

§ 2.13 Measuring instruments.

(a) The measurements should be made with a waterproof tape, graduated into feet and tenths of a foot, and as nearly inelastic as possible.

(b) Sliding rods which are of three sizes: One 3 feet long for taking depths from 3 to 5.8 feet; another 6 feet long for taking depths from 6 to 11 feet, or, with the extension piece attached, to 16 feet; and a third one 11 feet long for taking depths from 11 to 21 feet, or, with the extension piece attached, to 26 feet. The movable or index rod in each has an arrow index traversing a decimal scale on the fixed rod. Greater depths may be taken by inserting into the ends of the index rods, an extension piece, provided with sockets for this purpose one or more joints of lift rods described below:

The fixed rod is graduated in feet (in red) and tenths and half-tenths (in black), and when the ends of the rods are well together the arrow on the index rod points to the figure indicating the constant length of the fixed rod, and as the index rod is moved up the arrow indicates the length from the upper end thereof to the lower end of the fixed rod. Bear in mind, however, that when you use any of the attachments referred to above you must add to the reading on the fixed rod the net length of the attachment used; e. g., if the 6-foot rod is extended to its limit, 11 feet, which is reached when the arrow on the index rod is fair with the upper end of the fixed rod, and the extension piece is attached, which is done by slipping the bands on the lower end of it over the upper end of the index rod until the upper edge of the upper band is fair with the upper end of the index rod, and by fastening (on the groove side of the index rod) with set screws in the said bands, the length will not be 11 feet, as shown by the reading, but 16 feet, the reading plus the increment due to the attachment (11 feet+5 feet). This increment may be further increased

by inserting into the end of the extension piece one or more joints of lift rods, each of which is about 3.95 feet when adjusted.

At the station of the area to be measured in single-deck vessels the rod is to be placed on the ceiling, or floor beam or timber when no ceiling is present, alongside the keelson or line of the keel, perpendicular or square thereto, and also parallel to the middle longitudinal plane of the ship, and forced up firmly under the deck and fixed in such position by the set screws; from the depths thus found take one-third of the round or one-half of the pitch of beam to get the depth of the area.

The depth of an area taken as above is to be divided into the required number of equal parts. (See § 2.29 (d).) With the rod fixed in position as above, set off on it from its lower end one of these equal parts, or common interval between the breadths, using white or other colored chalk or material that will make a visible mark, which gives the position of the first breadth above the bottom breadth, and from this when the rod is taken down the positions of the remaining breadths are to be set off at the said common interval.

The positions of all the breadths being thus severally marked on the rod, it is then to be set up again and firmly fixed or held in position, and the breadths may be readily and correctly measured by means of the tape held at right angles across the rod at each of the positions marked thereon.

In measuring vessels with more than one deck, where the second deck from the bottom is the tonnage deck, it will be necessary to use two of these rods in combination, one directly over the other, one in the hold under the first deck, as directed for single-deck vessels, and the other in the space between this deck and the tonnage deck. In this combination the tonnage depth is found by adding together the two depths and the thickness of the deck between the rods and deducting from this combined depth one-third of the round or one-half pitch of beam; then proceed as before directed.

(c) A 2-foot rule with a hinge is required for taking the rake of the bow and stern and for other purposes.

(d) A carpenter's square will be found useful for setting the sliding rod perpendicular to the keelson.

(e) For taking the breadths in the hold which are beyond the reach of the measuring officers two lift rods will be needed, each about 8 feet long (made by joining two sections), one having a pulley at the end over which the tape may be drawn when the rods are held in position and the other an attachment for holding the ring at the end of the tape.

(f) For transferring the location of the stations or ordinates of the transverse sections from the deck to the keelson, and sometimes, for finding registered breadth, a plumb line and bob are needed.

(g) For measuring laden vessels for Panama or Suez Canal tonnage certificates, a girting galvanized chain of an approved make is required.

§ 2.14 Stem.

A vessel's stem is to be described according to its contour; i.e., straight, raked, curved or square.

§ 2.15 Stern.

Describe the stern according to its shape at the after end below the upper deck or line of same, as round, elliptical, square or sharp.

§ 2.16 Masts.

In addition to what are commonly known as masts, spars set up at the center line of the bridging at the top of king-posts of certain vessels for signals and wireless antennae, etc., are to be considered as masts. The number of king-posts and derrick posts, etc., independent of the supported masts are to be separately stated after the number of said masts; e. g., "Two masts and eight king-posts," or as the case may be.

§ 2.17 Ceiling, cargo battens, etc.

(a) *Ceiling.* Ceiling hereafter referred to is considered the permanent planking fitted directly on the inboard side of the frames, or floors, or the top of the double bottom. The maximum allowance for ceiling is 3 inches on the bottom and 3 inches on each side. When ceiling is found to be less than 3 inches thick, allow the actual thickness thereof; that is, take dimensions to the face of the ceiling so found. Depths and breadths shall not be decreased due to grounds supporting ceiling nor shall allowance be made for ceiling on the under side of deck beams.

(b) *False ceiling.* In small vessels with "false ceiling" in a portion of their cabins, in their holds, or forming a part of their seats or lockers, etc., therein, and which stands off from their frames—that is, not fitted to them as ordinary ceiling—take the breadths through the said "false ceiling" to the inner faces of the vessel's frames, deducting therefrom the thickness of the "false ceiling" on each side. If, however, there is a ceiling fitted on the frames in addition to the "false ceiling," take the breadths to the ceiling on the frames, making no allowance for the "false ceiling."

(c) *Cargo battens, insulation.* Paragraph (a) of this section applies to cargo battens (spar ceiling) and refrigeration insulation.

§ 2.18 Register length.

(a) The length measured on the tonnage deck, from the fore part of the outer planking (where it is rabbeted) on the side of the stem of wooden vessels, or fore end of lap of outer plating of steel or iron vessels, to the after side of the main sternpost, shall be accounted the vessel's register length. (See Figures 2 and 3 (§ 2.65).)

(b) In the case of screw vessels with no sternpost, take the length to the forward side of the rudder-stock or line of same extended through the deck.

(c) The register length of scows and barges, with a square bow and stern sloping up from the bottom to the deck, and with neither stem nor sternpost, is to be taken on the deck from the extreme point of the hull at the bow to the extreme point of the hull at the stern; that is, the over-all length of the hull, not including guards or rubbing strakes, is to be considered the register length of such vessel.

§ 2.19 Register breadth.

(a) A measure from the outboard face of the outer skin on one side to the same point opposite, taken at or below the upper deck and at the widest part of the hull is the register breadth. (See Figure 4 (§ 2.65).)

(b) A practical method for finding the register breadth is, to add twice the sum of the depth of the vessel's side frames and thickness of outer skin, plus an allowance for thickness of ceiling, insulation or cargo battens if fitted, to the greatest tonnage breadth.

§ 2.20 Register depth.

(a) The register depth is taken at the middle of the tonnage length from the under side of the tonnage deck, or line of same, down to the top of the floors at the side of the keelson; or to the ordinary floor timbers or plates when fitted; or to the inner bottom plating (tank top) of a cellular double bottom; as the case may be, in a direction perpendicular to the keel.

(b) Should ceiling be fitted on the above mentioned bottom members, the register depth shall be measured to the top of same and to this dimension shall be added the height of grounds, battens or other type of support for the ceiling. (See Figures 4 and 5 (§ 2.65).)

(c) If the vessel is measured in parts, as explained later, the register depth is taken at one-half the tonnage length of the vessel.

§ 2.21 Upper deck to the hull.

The uppermost complete deck, which extends from stem to stern and from side to side at all points of its length and below which there are no openings through the hull as required in shelter deck spaces and also having its hatchways or other openings provided with means for closing them against the action of the sea and weather upon the space below enclosed by the sides of the vessel, making the said space a fit place for the stowage of general cargo, is to be considered the upper deck to the hull.

§ 2.22 Enumerating the decks.

In enumerating the number of decks, only those which are without such openings as exempt the spaces beneath from being included in the tonnage under the upper deck are to be considered. Other decks, if any, containing such openings as exempt the spaces beneath from inclusion in tonnage should be separately described after the number of decks proper; e. g., "Two decks and shelter deck," or as the case may be. Partial decks, forward or aft, such as orlop decks, are not considered as decks.

§ 2.23 Register height.

If the vessel has three or more decks to the hull, then the height from the top of the tonnage deck planking and/or plating to the under side of the planking and/or plating of the uppermost deck shall be deemed the register height of the uppermost deck above the tonnage deck.

§ 2.24 Round of beam.

(a) The round of beam (camber) is the perpendicular distance down from the crown of the under side of the tonnage-deck plank or plating at the center to a line stretched athwart the vessel from end to end of the top of the beam and is to be ascertained at every place where it is to be used in the measurement. (See Figures 6 and 16 (§ 2.65).)

(b) The round of beam of the tonnage-deck, which must be known before

taking the tonnage length, as well as before measuring the depths of the tonnage sections, may be taken either at the under side of the deck by stretching a small line tightly from end to end at the top of the beam, which will show the round or camber of the beam at the center; or it may be taken, if more convenient, at the upper side of the deck by stretching a line tightly across, held at equal heights from the deck at each side of the vessel, so as just to touch the crown of the deck at the middle line; then the distance from the deck to the line at the vessel's sides gives the round of beam. (See Figure 6 (§ 2.65).) It is necessary to take the round of beam at each point of division of the length except when the vessel has a flat deck or one practically so. In lieu of the above methods, it may be ascertained on the basis of one-fourth of an inch to the foot of beam at each section in iron or steel vessels of the usual camber of beam. This method is more accurate and easier of application than the others.

(c) When the round of beam is 0.15 foot or less, it may be ignored.

§ 2.25 Pitch of beam.

(a) In vessels whose tonnage deck has a pitch instead of a round from its side at the shell plating to its center, find the height of the pitch of the beam at each tonnage section. It may be done in any practical manner.

(b) The height of the pitch of the beam is the perpendicular distance from the apex at the under side of the tonnage deck plank or plating at the center of the deck down to a straight line from end to end of the top of the beam. (See Figure 7 (§ 2.65).)

§ 2.26 Tonnage deck.

(a) The tonnage deck is the upper deck to the hull in vessels having not more than two decks, and the second deck from the keel in vessels having more than two decks.

(b) If the tonnage deck consists of several partial decks extending with breaks from stem to stern, and if the partial decks are at different heights, the line of the lowest deck will be taken as the tonnage deck, and the headroom above such line under the higher deck or decks will be measured as a break.

(c) Engine and boiler casings, peak tanks and cofferdams are not considered as breaking the continuity of a deck. (See Figures 8 and 9 (§ 2.65).)

§ 2.27 Tonnage length.

The tonnage length is the longitudinal distance on the under side of the tonnage deck, or line of same from a point where the line of the inboard faces of the side frames, or ceiling thereon if any, intersects the side of the stem, to a point aft on the inboard face of the stern timber or cant frame, or ceiling if fitted thereon. (See Figures 10 and 11 (§ 2.65).)

§ 2.28 Depth of a transverse section.

(a) *Depth.* The depth of a tonnage section is a measurement taken at its proper point of division of the tonnage length, from a point at a distance below the tonnage deck equal to one-third of the round or one-half of the pitch of the beam, down to the upper side of the floor timbers or floor plates; or bottom floors alongside the keelson; or longitudinals; or the tank top of a cellular double bottom, as the case may be.

(b) *Ceiling.* If ceiling is fitted on the bottom floor members, depths of transverse sections terminate on the upper face of the ceiling of average thickness. (See Figure 4 (§ 2.65).) For tonnage depths where ceiling is fitted on tank top, see Figure 5 (§ 2.65).

(c) *Raised platform.* In vessels with a raised platform in the bottom and no ceiling fitted on the bottom frame members, the depths are to be taken down through the platform to the upper side of the floor timbers or floor plates as described above, deducting therefrom the thickness of the ceiling of the platform in question.

(d) *Depths in way of interruptions to tonnage deck.* Should depths of transverse sections fall where the tonnage deck is interrupted, due to a break, hatches, etc., then depths are taken from the line of continuation of the tonnage deck.

(e) *Rise of double bottom.* In vessels having a double bottom the tank top of which, in way of tonnage sections, rises from the center line to the wings, the tonnage depth of each section will terminate at one-half height of the dead rise. (See Figure 12 (§ 2.65).)

(f) *Fall of double bottom.* In vessels having a double bottom the tank top of which, in way of tonnage sections, has a straight fall from the center line to the wings the tonnage depth of each section will terminate at one-half height of fall. (See Figure 13 (§ 2.65).)

§ 2.29 Tonnage depths.

(a) *The tonnage depth.* The depth generally referred to as "the tonnage depth" is located at the middle point of division of the tonnage length and is found in a manner similar to the other depths of transverse sections.

(b) *Tonnage depth in a vessel measured in parts.* Should a vessel be required to be measured in parts, and each part measured as a separate unit; then a tonnage depth shall be found for each part or unit at one-half its tonnage length. (See Figure 14 (§ 2.65).)

(c) *Tonnage depth is the first depth measured.* The tonnage depth governs the number of parts into which it and all the remaining depths of the part in which said depth is located, is divided.

(d) *Divisions of tonnage depth.* If the tonnage depth at the middle of the tonnage length of the vessel or part of same does not exceed 16 feet, divide each depth into 4 equal parts; but if the depth at the middle of said length exceeds 16 feet, divide each depth into 6 equal parts.

(e) *Intervals.* The common intervals between the points of division of depths, also one-third common intervals are to be carried to the nearest hundredth of a foot.

(f) *Purpose for dividing tonnage depths.* Depths are divided to indicate points at which tonnage breadths are to be measured.

§ 2.30 Tonnage breadths.

(a) *Breadths.* An inside horizontal breadth is to be measured at each point of division of the depth marked on the sliding rods placed in position as directed in § 2.13(b) and also at the upper and lower points of the depth. Extend each measurement to the inboard face of the ordinary frames, or line of same, or inboard face of ceiling, or battens, or insulation of average thickness if fitted. (See Figure 15 (§ 2.65).) Care must be taken that the sections shall be parallel to each other and at right angles to the axis of the vessel.

(b) *Upper breadth.* In finding the upper breadth of each transverse section make no allowance for the excess of the deck-beam shelves, etc., over the permissible thickness of ceiling, if any, thereunder.

Referring to Figure 16 (§ 2.65), observe that after the deck is laid the upper breadth (represented by the line U B) passes through the deck on each side. Hence, it is impossible to take it at its true position. In such cases take it on the deck, allowing within the extended line of frames the thickness of the ceiling if any on the frames under deck, as shown by line T B in the figure.

Owing to deck-beam shelves or other obstructions, it can be more conveniently and accurately taken here than under the deck, and, besides it will be only a few inches from its true position. In vessels which have upright sides the said breadth so taken will be correct, but in the case of vessels with inclining sides the necessary allowance must be made for the deviation of the sides from the upright in the few inches above the true position of the said breadth.

(c) *Bottom breadths.* Bottom breadths are taken only so far as the flat of the floor extends. (See B B, Figures 4 and 5; Figure 15; and B B, Figures 17 and 18 (§ 2.65).)

When bottom frames rise immediately from the keelson, or combined keel and keelson, and bona fide floor timbers or floor plates are not fitted, bottom breadths are equal to the breadth of keelson, or combined keel and keelson as the case may be. (See B B, Figure 19 (§ 2.65).)

The bottom breadths of transverse sections of vessels of longitudinal construction falling in the hold where there is no double bottom and where there is a dead rise of the bottom out to the sides of the vessel may be considered to be equal to that part of the bottom plating not affected by dead rise.

(d) *Bottom breadths in case of rise or fall of double bottom.* Bottom breadths falling in way of a double bottom the top of which rises or falls from the midship longitudinal plane to the wings are measured from and to the inboard end of the frame brackets (or ceiling thereon if fitted), connecting the double bottom with the frames. (See B B, Figures 12 and 13 (§ 2.65).)

§ 2.31 Measuring the tonnage length.

(a) The cubic capacity of the space below the tonnage deck is determined by use of the tonnage length together with the areas of a prescribed number of transverse sections as hereinafter described.

tanks and cofferdams are not considered wings the tonnage depth of each section thereunder.

(b) To determine the extreme points of the tonnage length as indicated by § 2.27 and T L in Figures 10 and 11 (§ 2.65), observe the following:

(1) *Vertical bow and stern.* In vessels having a vertical bow, also a vertical stern, both above and below the tonnage deck, measure horizontally the depth of frames, also the thickness of ceiling thereon if any, at the extreme forward and after ends immediately under the tonnage deck. Mark these measurements on the upper side of the tonnage deck, from the outer shell and in the direction in which the frames were measured. Then draw through the points thus obtained, lines parallel to the shell. The forward and after points of intersection of these lines indicate the points from and to which the tonnage length is to be measured.

(2) *Raked bow or stern.* In the case of vessels having a raked bow or stern at the level of the tonnage deck, the extreme points of the tonnage length are, when practicable, to be determined at the under side of the tonnage deck. The distance from these points to a hatch coaming, bulkhead, etc., should be measured and transferred to the upper side of the tonnage deck as indicated in Figure 20 (§ 2.65).

(c) Should it be impracticable to determine the extreme points of the tonnage length at the under side of the tonnage deck, and should the thickness of this deck be considerable, as in the case of a wooden deck, the rake of the bow or stern within the thickness of the deck is to be taken into account. This is done after having first proceeded as indicated in paragraph (b) (1) of this section by measuring the thickness of the tonnage deck and determining by means of a hinged rule, or any other instrument for finding angles under similar circumstances, the angle of the rake which the bow or the stern forms with the tonnage deck. Transfer thereafter this angle on the deck by drawing the lines A B C shown in Figure 21 (§ 2.65), A B represents the upper side of tonnage deck and B C the after side of the stem or the inside of the shell at the stern, as the case may be. The perpendicular B D represents the thickness of the tonnage deck. The points T, L, in Figures 10 and 11 (§ 2.65) marked on the upper side of the tonnage deck are then to be moved forward at the stern or aft at the stem, as the case may be, for a distance equal to D E, representing the rake within the thickness of the deck.

(d) It should be borne in mind that the condition for applying the method of setting out the angles on the upper side of the tonnage deck is that the stem or stern have the same angle of rake above and immediately below the tonnage deck. If the angle of rake at or immediately below the tonnage deck is a different one, then this last angle must be used.

(e) Should a vessel as referred to in paragraph (b) (2) of this section have a square bow or stern, it will be necessary to make a correction for camber where such exists. This is done by increasing the thickness of the deck B D in Figure 21 (§ 2.65) by one-third of the round or one-half of the pitch of beam at the extreme point of the tonnage length.

§ 2.32 Divisions of tonnage length.

(a) The tonnage length is to be divided into an even number of equal parts as required by the following table, according to the class in such table to which the vessel belongs:

Class	Tonnage length	Divisions
1	50 ft. or less	6
2	Above 50 ft., not exceeding 100 ft	8
3	Above 100 ft., not exceeding 150 ft	10
4	Above 150 ft., not exceeding 200 ft	12
5	Above 200 ft., not exceeding 250 ft	14
6	Above 250 ft	16

(b) The points of division of the tonnage length, also each end of the length indicate the common intervals at which a depth is measured.

Intervals and one-third intervals are to be carried to the nearest thousandth of a foot.

§ 2.33 Transfer of location of sections to keelson.

(a) The tonnage length having been ascertained and the number of sections to be measured and the interval between them determined, a line is then to be extended down the main hatchway, at the middle line of the vessel, in a perpendicular direction.

(b) The distance of the midship tonnage section is then to be set off from this line in the same direction on the keelson, which gives the position of the midship section on the keelson, and the positions of the other sections are obtained on the keelson by setting off forward and abaft the midship section the common interval between sections as already determined.

The position of the midship tonnage section may be determined by any other practical means.

§ 2.34 Transverse areas, rule for finding.

(a) Assuming the tonnage length exceeds 250 feet requiring that it be divided into 16 equal parts, and the tonnage depth at the middle of the tonnage length exceeds 16 feet, requiring it to be divided into 6 equal parts:

(1) Measure the depth at each of the 15 points of division of the length as required, also at the extreme forward point (Section 1) and at the extreme after point (Section 17) of the length. (See Figure 22 (§ 2.65).)

(2) The extreme points of the length at the bow and stern, though described as being the positions of the first and last areas, do not in vessels of usual form yield any area for practical purposes. Therefore, in the computation for tonnage, where the first and last sections yield no areas, a cipher must be employed in their places. In vessels of unusual form, as, for instance, in barges or other craft in which the bow and stern are upright, with breadth also at those places, sections at the extreme points of the length will yield areas; in which cases such areas must be measured and used in the computation.

(3) Then measure the inside horizontal breadth at each of the five points of division of the depth, also at the upper and lower points of the depth.

(4) Number the breadths from above, numbering the upper breadth 1 and so on down to the lowest or seventh.

(5) Multiply the second, fourth and sixth by 4, and the odd numbered breadths by 2, except the first and last which are multiplied by 1.

(6) Add these products together.

(7) Multiply the sum thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area.

(8) This process will be repeated for every section.

(b) Having thus ascertained the transverse area at each point of division of the length of the vessel, also at each end of the length if they yield areas, as required above, proceed to ascertain the register tonnage of the vessel in the following manner:

(1) Number the areas successively 1, 2, 3, etc., No. 1 being at the extreme limit of the length at the bow and the last number at the extreme limit of the length at the stern.

(2) Then multiply the second and every even numbered area by 4 and the third and every odd numbered area by 2, except the first and last which are multiplied by 1.

(3) Add these products together and multiply the sum thus obtained by one-third of the common interval between the areas, and the product will be the contents in cubic feet of the spaces under the tonnage deck.

(4) Divide this product by 100, and the quotient, being the tonnage under the tonnage deck shall be deemed the register tonnage of the vessel, subject to the additions hereinafter mentioned.

(c) In every case when finding the capacity under tonnage deck, or a part thereof; whether the length be divided according to the table into 6 or 16 parts, as in classes 1 and 6, or in 2 or 4 parts as provided for in § 2.35 (a) and the depths into 4 or 6 parts, thus requiring 5 or 7 breadths respectively to be taken; the above formula shall be used; i. e., even numbered breadths shall be multiplied by 4, and odd numbered ones by 2 except the first and last which are multiplied by 1. Similarly when running areas through the multipliers, the even numbered ones shall be multiplied by 4 and odd numbered ones by 2, except the first and last, which are multiplied by 1.

§ 2.35 Breaks in double bottom.

(a) The tonnage length of a vessel having a break exceeding one-half of a foot in height, or a number of such breaks in the line of her double bottom, is to be divided into longitudinal parts establishing transverse vertical planes at such breaks. The length of each such part so found is then to be divided into a number of equal parts according to the class in the above table to which it belongs, just as if it were the length of a separate vessel: *Provided,* That such parts as are 20 feet or under in length may be divided into 2 equal parts, and those above 20 feet and not exceeding 40 feet in length may be divided into 4 equal parts instead of into 6, as indicated in the table in § 2.32 (a).

(b) When a vessel is required to be measured in parts, and each part measured as a separate vessel, the sum of the tonnages of the several parts is the capacity under the tonnage deck.

§ 2.36 Vessels having side tanks may be measured in parts.

Vessels having side tanks extending above the floor line or double bottom, and through which tanks tonnage breadths normally pass, may be measured in parts. The length of the first part will extend aft to the line of the forward bulkheads of the side tanks. (See Figures 23 and 24 (§ 2.65).) The length of the second part is equal to the length of side tanks, and the depths extend, at proper intervals under the tonnage deck, down to athwartship lines forming continuation of the side tank tops. (See Figure 25 (§ 2.65).) The third length immediately below the second part should equal that of the second. The breadths are taken between the inboard faces of the side tank bulkheads, and depths from athwartship lines forming continuation of the side tank tops. The fourth part will extend from a line athwart the after bulkhead of side tanks to a point aft where tonnage lengths usually terminate. Measure separately a side tank, the tonnage of which is to be doubled, assuming both tanks are identical as they usually are; then the sum of the tonnage of the several parts thus found shall be deemed the capacity under tonnage deck.

§ 2.37 Outside shaft tunnel.

To find the under deck tonnage of a vessel having an outside shaft tunnel, the shape of a section of which is usually the segment of a circle, measure the portion of the tunnel space included by the process of measurement in the under deck tonnage and subtract it therefrom. (See Figure 26 (§ 2.65).)

Divide the length of such tunnel into a convenient number of equal parts, then find an area at the points of division of the length, also at the ends, if the end ones yield an area, by the following formula:

$$\text{AREA} = \frac{2h}{3}(c)$$

c=chord of the segment of a circle.
h=height of segment (from chord to crown of arc).

Having found the required areas, proceed in the manner provided for using the areas as ordinates in determining under deck tonnage, finding the sum of even numbered areas multiplied by 4; the odd numbered areas multiplied by 2, except the first and last which are multiplied by 1. Then multiply the sum so found by one-third common interval between sections. The result divided by 100 gives the tonnage of the tunnel to be subtracted from the under deck tonnage found by ignoring initially the projection of the crown of the tunnel into the hold.

§ 2.38 Square end vessels having head blocks.

(a) In the case of vessels with square ends having head blocks extending from the deck to the bottom longitudinals on the rake of the bottom, the termini of the tonnage length will be at the inboard face of said block, and the area of the first and last section will equal the area of the inboard face of said block. (See Figure 27 (§ 2.65).)

(b) Should the head blocks extend inboard of the inboard face of the end frames (see Figures 28 and 29 (§ 2.65)), or should the head plates be excessive (see Figure 30 (§ 2.65)), consider the termini of the tonnage length to be at points inboard from the ends of the vessel, equal in distance to the thickness of the shell plating, depth of side frame, plus ceiling if fitted. Rubbing strakes to be excluded.

§ 2.39 Between decks.

(a) If the vessel has a third deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows:

(1) Measure the inside length of the space at the middle of its height, from the ceiling at the side of the stem to the ceiling on the midship stern timber; or, if there is no ceiling take the length from a point forward where a continuation of the lines of inboard faces of the side frames intersect the center line of the vessel aft to the inboard face of the midship stern timber. Divide the length into the same number of equal parts into which the length of the tonnage deck is divided.

(2) Measure also at the middle of its height the inside breadth of the space at each of the points of division of the length, the breadth at the stem, and the breadth at the stern (if round, as in the case of poops of similar form). Number the breadths successively 1, 2, 3, etc., commencing at the stem.

(3) Multiply the second and all other even numbered breadths by 4 and the odd-numbered breadths by 2, except the first and last which are multiplied by 1. Multiply the sum of these products by one-third of the common interval between the points at which the breadths were taken; the result will give, in superficial feet, the horizontal area at the mean height of such space.

(4) Multiply the mean horizontal area by the average height taken between the planks of the two decks and the product will be the cubical contents of the space; which, divided by 100 shall be deemed the tonnage to be included among the items comprising the vessel's gross tonnage.

(b) If the vessel has more than three decks, the tonnage of each of the between decks above the tonnage deck shall be severally ascertained in the manner above described and shall be added as items comprising the vessel's gross tonnage.

§ 2.40 Superstructures.

(a) *Permanent erections.* Permanent erections; i.e., forecastle, bridge, poop, break, etc., on or above the upper deck, shall be measured tier by tier, and, exclusive of closed-in exemptible spaces, and open spaces, shall be included in the gross tonnage.

(b) *Length.* Measure at half height the mean length of such a space along its center longitudinal line, from and to the line of the inboard faces of the frames, or stiffeners, or ceiling if fitted. Divide the length into an even number of equal parts the common intervals of which shall be most nearly equal to that of the parts into which the tonnage length was divided. (See Figure 31 (§ 2.65).)

(c) *Breadths.* Measure at the middle of its height the inside breadths; namely, one at each end and one at each point of division of the length, numbering them successively 1, 2, 3, etc., the number one breadth being at the extreme forward end of the length.

(d) *Round-end erections.* If the after end of an ordinary poop or a house is in the form of a continuous arc of a curve, its breadth at the extreme after end of its length shall be one-half of the preceding breadth. If the after end of such a poop or house is in the form of an arc of a curve which is broken at its extreme after end by a decided flat, its breadth at the extreme after end of its length shall be two-thirds of the preceding breadth. (See Figures 32 and 33 (§ 2.65).)

(e) *Round-end erections.* If the forward end of a house is in the form of a continuous arc of a curve, its breadth at the extreme forward end of its length shall be one-half of the succeeding breadth. If the forward end of such a house is in the form of an arc of a curve which is broken at its extreme forward end by a decided flat, its breadth at the extreme forward end of its length shall be two-thirds of the succeeding breadth.

(f) *Multipliers.* Multiply the even numbered breadths by 4, and the odd numbered ones by 2, except the first and last which are multiplied by 1.

(g) *Horizontal area.* Multiply the sum of the products by one-third of the common interval between the points at which the breadths were taken; the result will give the horizontal area at the mean height of such space.

(h) *Height.* Multiply the mean horizontal area by the average height measured between the decks, or the extended line of same. (See B and C in Figure 9 (§ 2.65).) Divide the product by 100 and the quotient shall be deemed the tonnage of such space.

(i) *Superstructures having breaks.* Superstructures having breaks in their covering deck or side lines shall be measured in parts. (See Figure 34 (§ 2.65).)

(j) *Superstructures on small craft.* Superstructures on small craft shall be measured similar to the method for finding the gross tonnage of larger structures. When a superstructure is erected over a cut-away portion of the tonnage deck, the height of such superstructure is to be taken from the under side of its covering deck to a line of continuation of the tonnage deck. Should there be no camber to the tonnage deck, allow for same, in the covering deck of the erection if it exceeds 0.15 foot. After subtracting the tonnage of exemptible spaces in the superstructure, the remainder shall be listed under a name describing the erection, among the items comprising the gross tonnage.

(k) *Height of a turtleback.* The mean height of a superstructure referred to as a "turtleback" may be found by tak-

ing a height at each point of division of its length, at the after terminal of its length, and at one-third common interval abaft the forward end of the length. The sum of the heights so taken, divided by the number of heights, will give a sufficiently accurate mean height.

§ 2.41 Hatchways.

The cubical contents of the hatchways shall be obtained by multiplying the length and breadth together and the product by the mean depth taken from the top of the beam to the under side of the hatch cover. From the aggregate tonnage of the hatchways there shall be deducted one-half of 1 percent of the gross tonnage of the vessel exclusive of the tonnage of the hatchways, and the remainder only shall be added to the said gross tonnage as excess hatchways.

The hatchways referred to are the ones out in the open or in open spaces on the upper deck to the hull and on closed-in deck erections. Hatchways on between decks and on the deck of open erections are not to be measured and included in the aggregate of hatchways from which the statutory deduction is to be made. The total hatchways on between decks and on the portion of the decks within closed-in erections on the upper deck to the hull are automatically included in the between-deck spaces and in the said erections by the process of measurement; and, of course, the hatchways on decks of open erections are not to be considered, serving as they do spaces not entering into the tonnage of the vessel.

§ 2.42 Record of exempted spaces.

The tonnage measurement of all spaces on or above the upper deck that the measurer has not included in the gross tonnage of the vessel must be recorded in detail on Form 1410, "Tonnage admeasurement," which, when forwarded to the Bureau for examination and appropriate action must be accompanied by suitable plans or sketches drawn to scale, or a complete explanation for the proper consideration of the exemption of such spaces.

§ 2.43 Enclosed spaces exempted from inclusion in gross tonnage.

The following closed-in spaces situated on or above the upper deck shall not be included in the gross tonnage provided they are reasonable in extent, adapted and used exclusively for the purposes outlined:

(a) *Companions.* Companions and booby-hatches serving as a protection for companionways (stairways or ladderways) leading to spaces below, whether such spaces are exempted or not. (See a, b, c and d in Figure 35 (§ 2.65).)

(b) *Galleys.* Spaces fitted with ranges or ovens (bakeries), without regard to the category of the persons they serve.

(c) *Light and air.* Spaces forming part of the propelling machinery space, or serving for the admission of light and air to such machinery shall be exempt under the heading of light and air. When no part of the propelling machinery extends below the upper deck, the space occupied by same is exemptible in its entirety together with such fuel bunkers as are located on or above the upper deck. Where fuel bunkers or tanks are located wholly or in part below the upper deck the space so occupied below the upper deck is not deductible.

(d) *Light and air on small boats.* (1) A house of reasonable size, into which the propelling machinery projects above the deck line, or a similar house used exclusively for light and air over such machinery on small boats is exempted, in its entirety, as light and air.

(2) A compartment of reasonable size, bulkheaded off and similarly used, located in a house serving other purposes is likewise so treated.

(3) When propelling machinery and/or light and air space, not bulkheaded off, is in a house serving other purposes, the actual length and breadth of the engine plus 2 feet each side and each end for working space, if such space is available, projecting up into the house becomes the length and breadth of exempted light and air, exclusive of such part as may be decked over and available for other purposes.

(4) If bunks, galley, supplies, etc., are located in the hull abreast the engine and under a house open to same, as described in preceding paragraph, and the 2-foot allowance for working space on each side of the engine base overlaps working space at galley, or as the case may be, allow one-half the actual breadth on each side the engine, which breadths plus the actual engine breadth projecting up into the house becomes the permissible breadth of light and air exemption.

(e) *Machinery spaces.* (1) Spaces occupied by machinery other than propelling machinery.

(2) The spaces occupied by dredging machinery on the upper deck of dredging vessels which are not self propelled but which are required to be documented are to be exempted. No allowance is to be made for spaces occupied by such machinery below the upper deck.

(f) *Skylights.* Skylights and domes affording ventilation and light to the erection thereunder, except skylights over propelling machinery. None of the space below the covering deck of such erection shall be exempted from inclusion in tonnage unless an opening is left in the deck of the superstructure immediately under such skylight or dome to give ventilation and light to spaces below such deck line. (See exempted skylight and a, b, c and d in Figure 36 (§ 2.65).) For the treatment of skylights over propelling machinery, see paragraph (c) of this section.

(g) *Special exempted water-ballast spaces.* (1) Any space other than the double-bottom space adapted only for water ballast, certified by the collector not to be available for the carriage of cargo (other than ballast water for use for underwater drilling, mining, and related purposes, including production), stores, supplies, or fuel, shall be deducted from the gross tonnage as measured to get gross register tonnage.

(2) Adaptation for water ballast consists of having the space or spaces properly constructed and tested as ballast tanks; that the pumps, pipes, etc., for filling and emptying such tanks must be of suitable dimensions, connected to the ballast system, and completely independent of the cargo, fuel oil, feed or domestic water pumping apparatus. Access shall be only through oval or circular manholes, whose greatest diameter must not exceed 2 feet in the watertight deck. Where a hatch exists over a space now to be used for the carriage of water ballast, plating shall be fitted and riveted or welded to form a watertight cover and a manhole as above described may be fitted in this cover plate. Such manholes, except when fitted on the weather deck, may be provided with a coaming not exceeding 6 inches in height. If these spaces are found being used for purposes other than water ballast, they are to be added to the gross tonnage of the vessel, and so included until such changes have been made as will definitely preclude their use for purposes other than for water ballast.

(3) No space will be deemed to be adapted only for water ballast unless the Bureau is satisfied that the primary purpose of the space is to afford a means of maintaining stability, trim, immersion, seakeeping[1] capabilities, or strength conditions under varying conditions and requirements of the vessel's operation and that the space claimed for exemption is necessary to and available at all times for any one of these purposes. An application for exemption of water-ballast spaces in excess of 30 percent of the vessel's gross tonnage, calculated without any allowance for water ballast, shall be submitted for approval to the Commissioner of Customs, accompanied by a statement in writing from the vessel owner or his representative as to the circumstances of use or construction of the vessel which make such an allowance necessary and proper and verifying that the conditions specified in this paragraph have been and are met. Any change in the facts on the basis of which a water-ballast exemption is granted under this section shall be promptly reported to the collector of customs for his determination as to whether there has been a change in the use of spaces requiring an adjustment of tonnage under § 2.64.

(h) *Water closets.* Any public room or compartment, if of reasonable size, fitted with hopper or hoppers, is, for admeasurement purposes, a water closet. This definition includes a room or a compartment designated as a toilet, fitted with urinal, or urinals, shower bath or shower baths, in addition to the hopper or hoppers. A crew water closet is considered public if it serves more than one member of the crew.

(i) *Wheelhouse.* The space for sheltering the man or men at the wheel. If the space is a combined wheelhouse and chart room, only such space as is necessary for the proper steering of the vessel shall be exempted. Should the space be

[1] The term "seakeeping" as used in this paragraph is defined as the ability of a vessel to maintain good behavior at its designed speed or at a speed as close as possible to its designed speed under all conditions of sea and weather which the vessel may encounter in its designated service.

partly above and partly below the upper deck, such part above the line of continuation of said deck is exemptible.

§ 2.44 Passenger cabins.

(a) Passenger cabins and staterooms immediately on the upper deck to the hull, permanently closed-in and fitted up for permanent use of passengers, are to be included in the gross tonnage. They will be exempted only when they have no berthing accommodations and have only temporary arrangements to protect passengers on short voyages from rain and the shipment of seas, constituting sheltered spaces under cover and open to the weather; that is, not enclosed.

(b) Cabins and staterooms when assigned for use of passengers only, constructed entirely above the first deck which is not a complete deck to the hull (see § 2.21), may be exempted from inclusion in tonnage. In the case of Army transports, colliers, supply ships, hospital ships, etc., the term "passengers" shall include all officers, enlisted men, and other persons who are not assigned to ship's duties and not entered on the ship's articles, and no deductions for spaces occupied by such persons shall be made; nor are cabins and staterooms occupied by them when situated on a deck not a deck to the hull to be included in gross tonnage.

(c) For admeasurement purposes a cabin is defined as an apartment of a vessel, or the portion of the apartment that is assigned for the exclusive use of passengers. A cabin may consist of staterooms, bathrooms, toilets, libraries, writing rooms, lounges, dining rooms, saloons, smoking rooms, play rooms, etc., individually or collectively. The following spaces—smoking room, lounge, foyer, library, and similar public spaces, with or without a stateroom—would, for instance, be considered cabins. In short, any passenger stateroom or public space reserved entirely for the use of passengers is to be considered as coming under the meaning of the word "cabin".

(d) A passenger stateroom is defined as an apartment, or one of the units of an apartment on a vessel, intended primarily to afford sleeping and/or other accommodations for passengers traveling alone or together.

§ 2.45 Open superstructures on or above the upper deck.

(a) *Treatment.* Nothing shall be added to the gross tonnage for any sheltered space on or above the upper deck which is under cover and open to the weather; that is, not enclosed.

(b) *Determination as to inclusion in gross tonnage.* In deciding whether or not superstructures are permanent closed-in spaces and should be included in tonnage, the measurer should have regard to the character and structural condition of such erections.

(c) *Tonnage openings.* A forecastle, bridge, poop, or any other permanent superstructure on or above the upper deck to the hull, with one or more openings in its sides or ends, not fitted with doors or other permanently attached means (except as provided for below) of closing them, shall be exempted from inclusion in gross tonnage if the opening or openings are in conformity with the following provisions:

(1) *Two 3 x 4 foot tonnage openings.* When there are in one of the end bulkheads, two tonnage openings, each 3 feet wide by 4 feet high in the clear, one on each side of the center line of the end bulkhead.

(2) *One 4 x 5 foot tonnage opening.* When there is in one of the end bulkheads, as near as is practicable to the center line of the space, one tonnage opening at least 4 feet wide by 5 feet high in the clear, or its equivalent. An equivalent opening is considered to be one of at least 20 square feet in the clear, resulting from a breadth in excess of 4 feet and a height of not less than 3 feet.

(d) *Intermediate bulkheads.* If the space is subdivided by intermediate bulkheads, such bulkheads shall have an opening or openings of the same dimensions as prescribed above.

(e) *Coamings.* If coamings are fitted to tonnage openings, their height must not exceed 2 feet at any part.

(f) *Permissible temporary closures for exterior bulkhead tonnage openings.* Tonnage openings prescribed for the above-mentioned superstructures may be temporarily closed by shifting boards dropped into channel sections at the sides of such openings, or by plates or boards held in place by hook bolts, spaced not less than 1 foot apart, fitting over the stiffener bar at the sides, top, and bottom of such openings, or by a plate or boards held in place by bolts and cross pieces so arranged as not to be held in place by cleats or other attachments to, or bolts through the bulkhead. (See Figures 37 to 43, inclusive (§ 2.65).) Cover plates, etc., must fay against the bulkheads.

(g) *Battening, gaskets, etc.* In no case is the use of battening, caulking, or gaskets of any material permitted.

(h) *Permanent fixtures.* Cleats, stud bolts, hinges attached to, or bolts in bulkheads at the edges of tonnage openings are prohibited as they are considered to be part of the means, in conjunction with the plate or boards, of closing the tonnage opening.

(i) *Closures for interior bulkhead tonnage openings.* The same temporary means of closing, except by plates, the tonnage openings in interior bulkheads are permitted.

(j) *Enclosure within an open space.* An enclosure within an exempted space must be treated according to its use.

§ 2.46 Open shelter deck space.

(a) No space between the upper and shelter decks of a vessel shall be exempted from inclusion in gross tonnage as open shelter deck space unless there is in that shelter deck a permanent middle-line tonnage opening which, except as provided in this paragraph, is at least 4 feet long in the clear and at least as wide, in the clear, as the after cargo hatch on that deck. If any such opening is less than the minimum size in the clear specified in this paragraph solely because one or more corners of that opening are rounded, that space shall be exempted, upon compliance with all applicable provisions of this section, in any case in which the radius of curvature of each such corner is not greater than 9 inches, or in any case in which a greater radius of curvature is required in writing by the United States Coast Guard or by a recognized classification society. In the latter case, a copy of that written requirement shall be filed in the office of the collector of customs by whom the vessel is admeasured.

(b) *Position of middle line tonnage opening.* The distance between the after edge of this tonnage opening and the aft side of the sternpost must not be less than one-twentieth the register length of the vessel, or if the tonnage opening is forward, its fore side must not be less than one-fifth the register length of the vessel from the stem.

(c) *Coamings.* The coamings of the middle line tonnage opening must not exceed 12 inches extreme mean height above the deck, including the beading, etc., at the top for confining the hatch covers. If any such opening is guarded by rails or stanchions they shall be so arranged that they may not be used to secure or assist in securing a cover over that opening.

(d) *Cover.* (1) When portable wood covers are fitted they may be held in place by lashings fitted to the under side of the covers; lashings may be of hemp, manila or other similar material.

(2) When a metal cover is used, it may be held in place by hook bolts spaced not less than 18 inches apart, passing through the cover plate and hooked over angle stiffeners or flanges fitted on the outside of the coamings; i. e., the bolts must not pass through the stiffeners or flanges on the coaming, nor must there be any other attachments on the coaming for fastening the cover.

(e) *Opening not to be enclosed.* The middle line tonnage opening in a shelter deck must not be within a superstructure of any type.

(f) *Tonnage openings in shelter deck space.* When the permanent deck opening is situated aft, there must be at least two openings, each 3 feet wide by 4 feet high in the clear, in each of the transverse bulkheads within the shelter deck space forward of said deck opening; or should the deck opening be forward, the same requirements apply to transverse bulkheads abaft such forward deck opening.

(g) *Coamings.* Coamings, if fitted, must not exceed 2 feet in height at any part.

(h) *Temporary closure.* Excluding plates, the same temporary means of closing tonnage openings in the bulkheads of the well under the middle line tonnage opening in the shelter deck and in the intermediate bulkheads, if any, in the shelter deck space are permitted as described in § 2.45 (f).

(i) *Well under middle line tonnage opening.* The well under the middle line tonnage opening (in the shelter deck) must have a minimum length of 4 feet throughout its entire breadth and height, and shall be kept clear at all times.

accommodations for passengers traveling alone or together.

bottom of such openings, or by a plate

(j) *Scuppers.* A scupper, having a 5-inch minimum inside diameter, fitted with a screw down non-return valve geared to and operated from the shelter deck, must be fitted on each side of the upper deck in way of the permanent middle line tonnage opening in the shelter deck. (See Figure 44 (§ 2.65).)

(k) *Means for closing.* All openings in the upper deck to the hull must be provided with proper means for closing and battening down.

(l) *Closed-in spaces.* Any closed-in space within an open shelter deck space shall be treated according to its usage.

§ 2.47 An open structure on small craft.

(a) A house on a small craft is considered open to the weather and exempted from inclusion in tonnage provided the after end of such house is entirely open, from the under side of its roof beam down to a coaming not exceeding 3 inches in height, if there be a coaming, otherwise to the deck or line of same; and open in an athwartship direction from and to the inboard face of the end side stiffeners. (See Figures 45 and 46 (§ 2.65).) Closed-in spaces within an open erection will be treated according to their usage.

(b) Such an opening may be guarded by wire mesh screens and/or temporarily closed by canvas secured at the top and lashed down or buttoned in place at the sides and bottom.

§ 2.48 Open vessels.

(a) In ascertaining the tonnage of open vessels the upper edge of the upper strake shall form the boundary line of measurement, and a tonnage depth shall be taken from a line athwart the upper edge of said strake, at each point of division and each end of the tonnage length.

(b) An open vessel is one of any length without a deck, or with only a partial deck or partial decks, the total length of which is less than one-half her tonnage length.

(c) Further, a vessel having a tonnage length of less than 50 feet and a partial deck of any length or a single full length deck, which, in either case, lies more than one-sixth of the midship depth below the line of the upper edge of the upper strake to the usual point in the hold for taking the register depth, shall, for admeasurement purposes, be deemed an open vessel unless it has a mechanically refrigerated hold or holds.

§ 2.49 Deductions from gross tonnage.

(a) *General.* To ascertain the net tonnage, the tonnage of the following spaces meeting certain requirements shall be deducted from the gross tonnage.

(b) *Requirements.* No space shall be deducted unless it has been included previously in the vessel's gross tonnage; is reasonable in extent for the purpose to which it is appropriated; and is certified by marking as prescribed in paragraph (c) of this section showing that it is used exclusively for such purpose.

(c) *Marking.* The following markings are required by paragraph (b) of this section: For each space appropriated exclusively for the use of the master, including the master's bathroom, bedroom, dressing room, observation room, office, reception room, sitting room and water closet—"Certified for the Accommodation of Master"; for each space appropriated exclusively as a bedroom for the use of crew members, including officers other than the master—"Certified to Accommodate _____ Seamen"; and for other deductible spaces—"Certified _____," inserting the appropriate designation such as—"Boatswain's Stores," "Chart House," "Dynamos," "Galley," "Hospital," "Messroom," "Office of Chief Engineer," "Pump Room," "Radio," "Steering Gear," "W. C." The following abbreviations may be used: "Cert. Accom. Master," "Cert. Accom. _____ Seamen," "Cert. Boatswain's Stores," "Cert. Chart House," "Cert W. C." or "Cert. _____," inserting the space designation. The marking shall at all times be embossed, center-punched, or otherwise permanently cut in metal, and painted over with oil paint in a light color on a dark background, or a dark color on a light background, or carved or branded at least three-eighths of an inch in wood over the doorway, on the inside of the deductible space. Roman letters and Arabic numerals at least one-half of an inch in height shall be used and shall be readily legible at all times. If desired, the marking may be made on a plate of metal (but not of other material) permanently fastened in place by means of welding, riveting, or lock-type screws.

(d) *Crew spaces.* The tonnages of the spaces or compartments exclusively occupied by and appropriated to the use of the officers and crew of the vessel including:

Bathrooms. A bathroom is a compartment or a room containing (1) a bath tub, or (2) a bath tub and a water closet, or (3) a shower bath or showers without a water closet regardless of its location.

Clothes drying room.

Drinking water filtration or distilling plant below deck.

Hospital.

Crew mess rooms.

Officers' mess rooms.

Office of chief engineer.

Oil skin locker.

Pantry.

Recreation room.

Shower baths.

Sleeping rooms.

Smoking room.

Water closets, private. A private water closet is defined as one intended to serve not more than one member of the crew, whose stateroom or bedroom affords the only means of entrance thereto and is treated as part of the room served by it. Other water closets are considered to be public water closets for admeasurement purposes.

Water closets, public—below the upper deck.

Passageways and companionways serving the above spaces.

But none of these spaces when used by the passengers on a passenger vessel are to be deducted nor is the clerk's, purser's or paymaster's office deductible.

(e) *Nondeductible spaces on deductible passageway.* Lockers of less than 2 tons each, containing medicine, linen, mops, etc., for the free use of the crew; the ship's office, also spare rooms, not exceeding two in number and used as required by a pilot, customs officer, reserve engineer, a company official or employee shall not invalidate the deduction of a passageway serving as sole access to their location.

(f) *Master's cabin.* Any space exclusively for the use of the master. This space includes sleeping room, dressing room, bathroom, office, and passageways serving the master's accommodations.

(g) *Measuring deductible spaces.* Deducted spaces, rectangular in shape, are to be measured by taking the product of the three dimensions, but when bounded by curved surfaces conforming to the sides of the vessel below the tonnage deck exceeding 15 feet in length, they are to be measured according to the formula on the back of Form 1410 for measuring peak tanks. When the space is less than 15 feet in length it may be measured by any practical method.

(h) *Platforms.* (1) When there is a platform, not more than 1 foot above the top of the bottom frames, to give a flat surface at the bottom of deductible spaces, and the space between the platform and said frames is not used for the stowage of gear, stores, etc., or for any other purpose, take depths of transverse sections to the top of the bottom frames and find areas as in the case of transverse sections for finding the tonnage below the tonnage deck. (See Figure 47 (§ 2.65).) P represents the platform 1 foot above the top of the bottom frames. A, B, and C are the positions of the sections. The forward section A, being sharp, yields no area.

(2) When the platform is more than a foot above the bottom frames, then find the areas only of the portion of the sections above the platform. (See Figure 48 (§ 2.65).)

(3) The depth of deducted spaces extending from the top to bottom of a deck erection may be taken between the same points as the depths used in finding the tonnage of the erection. In other words, if the erection was measured before the deck covering, if any, was laid and the ceiling or paneling, if any, overhead was fitted, and depths were taken from the underside of the covering planks or plating of the deck over as required by the law and regulations to the deck beneath, the deck covering and overhead ceiling are to be disregarded in obtaining depths of the various deducted spaces. In determining the number of men that may be berthed in a space the act of March 4, 1915, (38 Stat. 1165; 46 U. S. C. 660–1) is to govern.

(i) *Spaces in the between decks, etc.* Deducted spaces in the between decks or erections on or above the upper deck having curved sides are to be measured according to § 2.40.

§ 2.50 Navigation spaces.

(a) *Spaces used exclusively for navigation.* Spaces used exclusively for maneuvering or navigating the ship shall be deducted from the gross tonnage to the extent of what is considered reasonable. When the steering gear, anchor gear, helm, etc., are situated within a room unnecessarily large for the purpose, or are not partitioned off at all, a 2-foot allowance on every side of the apparatus may be made for working space. The height to be allowed should, as a rule, be the mean height of the between deck space.

(b) *Anchor gear.* The spaces below, occupied by anchor gear, include the capstan, windlass, and chain locker. When the fore peak is used exclusively as the chain locker, it is to be measured in the manner prescribed for measuring fore peak tanks when used for water ballast.

(c) *Boatswain's stores.* (1) Subject to the restrictions stated below, any space exclusively appropriated to and used for keeping the boatswain's stores may be deducted.

(2) The allowance for boatswain's stores shall be 1 percent of the gross tonnage in vessels of 100 gross tons and over, but this allowance shall in no case exceed 100 tons. In the case of vessels of less than 100 gross tons this deduction shall not exceed 1 ton.

(d) *Chart room.* (1) The space for keeping the charts, nautical instruments and for plotting the course. When the space is a combined wheel and chart room, such part as is not exempted as wheelhouse shall be deducted.

(2) In small vessels requiring the use of navigation charts, and where the cabin or saloon is the only space available for filing or use of such charts, one-half of the cabin or saloon, may be allowed for this purpose provided the allowance does not exceed 1½ tons.

(e) *Donkey engine and boiler.* (1) The space occupied by a donkey engine and boiler, if situated within the boundary of the engine room or the casing above it, and if the donkey engine is used as an auxiliary in connection with the main machinery for propelling the vessel and this space forms part of the actual engine room it shall not be subject to a separate allowance.

(2) When the donkey engine and/or boiler is in a house above the upper deck and not used in connection with the main propelling machinery as described above, the space thus occupied is an exemption and therefore must not be included in the gross tonnage of the vessel.

(3) In all other cases the space occupied by the donkey engine and boiler, if same are connected with the main pumps (except cargo pumps) of the vessel, is to be allowed as a deduction from the gross tonnage, if reasonable in extent. It must be certified in the same manner as other deductible spaces.

(f) *Dynamo spaces.* The space or spaces when reasonable in extent, occupied by dynamos, switchboards and apparatus necessary for the operation of same, when located below the upper deck shall be deducted regardless of the service for which the dynamo or dynamos are used.

(g) *Pump room.* A pump room or space below the upper deck containing the pumps of the vessel which are used solely for handling ballast, feed water, water for cleansing purposes, and for freeing the ship of water entering her hold, etc., shall be deducted as pump room. A pump room or space below the upper deck containing pumps primarily used for handling cargo, as in the case of bulk-oil carriers, shall not be deducted. The portion of either of the above pump spaces above the upper deck is exemptible as machinery space.

(h) *Radio house.* The space set apart for sending and receiving wireless messages.

(i) *Storage of sails.* In the case of a vessel propelled wholly by sails, any space not exceeding 2½ percent of the gross tonnage of the vessel when such space is used exclusively for storage of sails.

§ 2.51 Engine room.

(a) *Engine room must be measured.* Notwithstanding the ratable allowance for propelling power for which the act of March 2, 1895 (28 Stat. 741; 46 U.S.C. 77) provides, it is necessary to measure the engine room, regardless of size, in order to ascertain whether the allowance to be deducted for propelling power shall be regulated by a percentage of the gross tonnage or by the actual tonnage of the engine room ascertained by measurement.

(b) *Spaces included in engine room must be in gross tonnage.* No space shall be included in the tonnage of the engine room unless it has first been included in the vessel's gross tonnage.

(c) *Deductions from engine room.* Conversely the spaces occupied by cabins, storerooms, etc., and any space not used in connection with propelling the vessel but included in the tonnage of the engine room through process of measurement must be subtracted therefrom.

§ 2.52 Spaces included in engine room.

The space occupied by the engine room is to be understood to include not only that occupied by the engine room itself but also the space occupied by the boiler room, together with the spaces strictly required for the working of the engines and boilers, and consisting of the following items:

(a) *Space below the crown.* The crown or top of the main space of the actual engine room, from which the depths of the main space are to be taken, will either be at the under side of a deck or, if the side bulkheads are sloping, at the point or height at which the slope terminates. (See Figures 49 and 50 (§ 2.65).)

(b) *Space between crown and upper deck.* Space between the crown and the upper deck framed in for the machinery or for admission of light and air thereto.

(c) *Space above upper deck.* Space similarly framed in above the upper deck when permitted under paragraph (i), act of March 2, 1895 (28 Stat. 741; 46 U. S. C. 77).

(d) *Shaft tunnels, etc.* The shaft tunnel or tunnels and the thrust block recess.

(e) *Escape shaft.* The trunked ladderway leading from the after end of the shaft tunnel to the deck, provided that it is no larger than is necessary for the purpose of access to and escape from the shaft tunnel. The part of an escape shaft above the upper deck line, also the companion sheltering the escape shaft, is accorded the treatment of light and air space.

(f) *Fuel oil transfer pump.* (1) When the fuel oil transfer pump is located in a separate space, this space, if reasonable in size, may be considered propelling machinery space provided said pump is not used for bunkering the vessel.

(2) Should such pump perform the dual service of handling both ballast and transferring fuel oil to the settling tanks, one-half the space may be credited to propelling machinery space.

(g) *Settling tanks.* (1) Fuel oil settling tanks used solely for rendering crude oil fit for consumption in the main boilers are considered as part of the propelling machinery space.

(2) The permissible allowance for settling tanks is based on a 4 days' supply under full steam, which allowance must not exceed 1 percent of the vessel's gross tonnage.

(h) *Engineers' stores and workshops.* The engineers' stores, and/or workshops are regarded as part of the engine room, up to three-quarters of 1 percent of the gross tonnage, if in the engine room, open to same, or separated therefrom only by a screen bulkhead and located below the upper deck.

§ 2.53 Length of engine room.

(1) As a rule, the length of the engine room extends from the bulkhead forward of the boilers to the one aft of the engines; but if these bulkheads limit a space considered excessive in length for the proper working of the boilers and engines, then that length only which is requisite for containing and operating the boilers and machinery, is to be allowed, with the addition of such length as is necessary for the stoking or working of the fires when the furnaces are in a fore-and-aft direction.

(2) No such additional length is, however, required when the boilers are placed with the furnaces athwartship. The clear central space allowed between the boilers when the stoking is athwartship should be sufficient for this purpose. The point to which the after boundary of the length of the engine room is to be measured should be such as to provide sufficient space for the safe operation of the engine.

(3) The measurer should allow such length between the engines and boilers as may appear to him necessary for the safe working of the machinery.

§ 2.54 Boilers and engine in same compartment.

The boilers and engine are considered to be in the same compartment when there is a transverse bulkhead, screen or otherwise, through which the boilers project into the engine space, and where there is only sufficient space between the boilers and engine for the safe working of the machinery.

§ 2.55 Engine room measured in parts.

If the boilers and engine are entirely in separate rooms, or if there is a break or breaks in the bottom or side lines of the propelling machinery space resulting from a break or breaks in the double bottom or varying height of floors thereunder, or from side bunkers or other spaces not considered propelling machinery spaces, measure each room separately as a whole or in parts, according to the number of breaks in its bottom or side lines, and the sum of the several results shall be deemed to be the tonnage of the said spaces.

§ 2.56 Rule for measuring engine room.

(a) *Space in hold amidship.* When the propelling machinery (boilers and engine) space is in the hold amidship, and without a break in its bottom or side lines, measure its length between the foremost and aftermost bulkheads or limits of its length, excluding such parts, if any, not actually occupied by or required for the proper working of the machinery. Divide the length by 2 and measure 3 depths of the space, one at each end and one at the middle of the length, taking the depths from the crown, or line of same, to the ceiling on the bottom frames or floor timbers, or to the inner plating (tank top) of the double bottom in the case of a steel vessel. Measure also a breadth at each end and at the middle of the length, the said breadths to be taken at one-half their respective heights. Find the product of the length, mean breadth and mean depth, which product divide by 100 and the result shall be deemed the tonnage of the main space below the crown.

(b) *Spaces between the crown and upper deck.* Find the cubical contents of the space or spaces, if any, between the crown aforesaid and the upper deck, or line of same, which are framed in for the propelling machinery or admission of light and air thereto, by multiplying together the length, breadth and depth thereof. Divide the product by 100; add the quotient to the tonnage of the space below the crown and the result shall, subject to the provisions hereinafter contained, be deemed the tonnage of the space.

(c) *Engine room in after end.* When the propelling machinery space is located in the after end of the hold of a vessel and extends from side to side of same and has a continuous bottom line, divide its length into such an even number of parts as will give a common interval most nearly equal to that used in finding the tonnage of the hold in that part of the vessel; then proceed to find its contends by the use of areas of transverse sections taken at each end and at each point of division of its length. In other words, measure it by the same method as was used for finding the tonnage of that part of the hold in which it lies.

(d) *Shaft tunnel and thrust recess.* (1) In the case of screw propelled vessels in which the top of the shaft tunnel is flat, the tonnage of such tunnel shall be ascertained by dividing the product of its length, breadth and depth by 100.

(2) In like manner find the tonnage of the thrust recess or entrance to the shaft tunnel.

(3) If the space abaft the shaft tunnel extends from side to side of the vessel, find its tonnage by using the formula for measuring peak tanks. (See Figures 47 and 48 (§ 2.65).)

(e) *Round top shaft tunnel.* When the top of the tunnel is practically semicircular in shape, find the area of a transverse section in two parts; first the lower part from the bottom of the trunk up to where the curve begins by multiplying the breadth by the applicable height, and then the semicircular part by taking half the area of a circle whose diameter equals the breadth of the tunnel. Multiply the sum of the two areas by the length and divide the product by 100. (See Figure 51 (§ 2.65), wherein B and H equal the breadth and height, respectively, of the lower part, and r equals the radius of the semicircular top.)

(f) *Shaft space and thrust recess not cased.* (1) When the shaft is not enclosed by a tunnel, the following rules should be observed in the case of a vessel with a single screw. The thrust-block space should be of such length and breadth as will permit of the proper care of the thrust-block and the height should not exceed 7 feet. The shaft space allowed should be of the dimensions of the usual tunnel suitable for the vessel and the height of this space should not exceed 6 feet.

(2) When the vessel is a twin screw and the space aft of the engines is open from side to side, the space should not be included in the engine room measurement for a greater height than 6 feet mean, and any space therein appropriated for stores or for any purposes other than the propelling machinery should be subtracted from the space to be included in the engine room.

§ 2.57 Engine room in small boats.

(a) *When not bulkheaded off.* In the case of a motorboat not having an engine room bulkheaded off from the rest of the hold, allow as engine space the space occupied by the engine and sufficient space on each side and end of it—say, about 2 feet—to permit the operator to handle it safely and efficiently; if sufficient space does not exist for such allowance then allow whatever space there is. Fuel tanks are not to be included in the said engine space.

(b) *When bulkheaded off.* If the engine room is bulkheaded off from the rest of the hold and is larger than is strictly required for safe and efficient handling of the engine, limit the engine space according to the said requirements and as indicated in paragraph (a) of this section.

(c) *Engine on a bed.* If the engine sits on a bed located on the vessel's bottom timbers, take depths when measuring the propelling machinery space from the under side of the deck, or line of same down to the top of the bottom frames or floor timbers as the case may be, or to the ceiling thereon when fitted.

(d) *Boxed-in engine.* (1) When the portion of the engine extending above a cockpit platform is boxed in such boxed-in portion is considered to be all of the space available for the installation and operation of the engine above the line of said platform in that part of the vessel.

(2) In the case of a wholly boxed-in engine in the hold of a motorboat, the tonnage of the boxed-in space, plus the shaft, engine auxiliaries, etc., that may be outside the boxing is considered the propelling machinery space.

(3) The above restrictions may invalidate light and air exemption when the boxing does not extend above the line of the upper deck. However, when such boxing does extend above said deck line, the height of light and air exemption is from the upper deck line to the under side of the top of the boxing.

§ 2.58 Deduction for propelling power.

In the case of a vessel propelled by steam or other power, a deduction shall be made for the propelling machinery space according to the percentage ratio between the actual tonnage of such space and the vessel's gross tonnage, calculated as follows:

For vessels propelled by screw in whole or in part:

13 percent or less: Deduct 32/13 times the tonnage of the actual propelling machinery space; or, in the case of a vessel the construction of which was commenced on or before June 4, 1956, if the owner so elects, deduct 1¾ times the tonnage of the actual propelling machinery space.

Above 13 percent, below 20 percent: Deduct 32 percent of the gross tonnage.

20 percent or more: Deduct 32 percent of the gross tonnage or 1¾ times the tonnage of the actual propelling machinery space, whichever the owner elects.

For vessels propelled by paddle-wheel in whole or in part:

20 percent or less: Deduct 37/20 times the tonnage of the actual propelling machinery space; or, in the case of a vessel the construction of which was commenced on or before June 4, 1956, if the owner so elects, deduct 1½ times the tonnage of the actual propelling machinery space.

Above 20 percent, below 30 percent: Deduct 37 percent of the gross tonnage.

30 percent or more: Deduct 37 percent of the gross tonnage or 1½ times the tonnage of the actual propelling machinery space, whichever the owner elects.

§ 2.59 Light and air spaces.

(a) *Application for allowance.* On a request in writing by the owner of a vessel to the collector of customs of the district in which the vessel is located, the tonnage of such portion of the space or spaces above the crown of the engine room and above the line of the upper deck as is framed in for the machinery, or for the admission of light and air, and not required to be included in the gross tonnage, shall for the purpose of ascertaining the tonnage of the space occupied by the propelling machinery, be added to the said machinery space; but it shall then be included in the gross tonnage. Such space or spaces must be reasonable in extent, safe, and seaworthy and cannot be used for any purpose other than the machinery or for the admission of light and air to the propelling machinery space of the vessel.

(b) *Reasonable in extent.* In construing the words "reasonable in extent" the measurer should note that the length should not exceed the length of the propelling machinery space, and if any portion is plated over, the length of such part must be deducted from the full length and whatever the breadth of the casing may be, the breadth allowed must not exceed one-half the extreme inside midship breadth of the vessel.

(c) *Purpose for including light and air spaces.* The purpose of adding a part of the framed-in light and air spaces (above the crown of the boiler and engine room and above the upper deck) of a vessel to her machinery space

below the upper deck is to entitle the vessel to a greater deduction for propelling power, and consequently obtain a smaller net tonnage than would otherwise result. To get this benefit, it does not always require the addition of the total of such light and air spaces. In such cases only such portion need be added as hereinafter explained.

(d) *Rule for computing addible light and air space.* Below is given a simple rule for finding the amount of light and air space or spaces required to be added to the gross tonnage and also to the propelling machinery space of a mechanically propelled vessel to entitle her to 32 percent of her gross tonnage for propelling-power deduction when granted by the collector upon request of her owner or owners:

Find 13.1 percent of the gross tonnage inclusive of excess hatchways. Find the difference between this percent and the tonnage of the propelling machinery space below the upper deck to the hull. Increase this difference by 15 percent of itself, which gives approximately the amount of light and air space or spaces to be added to the gross tonnage defined above, and also to the propelling machinery space below said upper deck. The gross register tonnage in such a case is the gross tonnage as defined above, plus light and air addition, less one-half of 1 percent of said light and air addition, which one-half percent is additional allowance for excess hatchways due to addition of light and air to gross tonnage.

EXAMPLE

Gross tonnage, exclusive of light and air and hatchways	5,675.95
Excess of hatchways (based on the above)	67.37
Gross tonnage, inclusive of excess hatchways and exclusive of light and air	5,743.32
13.1 percent of 5,743.32	752.37
Machinery space below the upper deck to the hull	680.55
Difference	71.82
15 percent of difference	10.77
Difference plus 15 percent of itself (amount of light and air to be added to gross tonnage and machinery space)	82.59
Gross tonnage, inclusive of light and air and excess of hatchways	5,825.91

EXAMPLE—Continued

Additional exemption for hatchways; account of light and air addition equals one-half of 1 percent of 82.59=82.59/200	0.41
Gross registered tonnage	5,825.50

Proof:

13.1 percent of 5,825.50	763.14
680.55 plus 82.59	763.14

§ 2.60 Verification of calculations, diagram of areas, and certification of results.

(a) *Calculations to be verified and diagram of areas made.* Calculations must be verified at least twice and a diagram of half breadths for areas made. (See Figures 52 and 53 (§ 2.65).)

(b) *Certification of results.* The deductions having been made from the gross tonnage and the remainder or net tonnage having been properly marked on the main beam, the surveyor or measuring officer will certify the result to the collector on Form 1322.

§ 2.60a Marking net tonnage and official number on vessel.

(a) The official number of a vessel, preceded by the abbreviation "NO.", and the net tonnage, preceded by the word "NET", shall be marked in a conspicuous place on her main beam at the expense of the owner or master, in Arabic numerals of the block type at least three inches in height, when the size of the main beam will permit. If the main beam is of wood, it shall be carved or branded in figures not less than three-eighths of an inch in depth. If the main beam is of iron or other metal, the official number and net tonnage shall be outlined by punch marks and painted over with oil paint in a light color on a dark background or a dark color on a light background.

(b) The beam at the forward end of the largest hatch on the weather deck which is generally located forward of amidships shall be considered the main beam for the purposes of these regulations. In the case of a vessel which does not have a hatch on the weather deck, any structural member which is integral to the hull may be considered the main beam.

(c) The official number awarded to a vessel shall pertain only to that vessel. If a vessel, having once received an official number, is rebuilt or redocumented, the number originally awarded shall be retained.

§ 2.61 Appendix to certificate of registry.

(a) When a vessel of the United States carries passengers to a foreign port or ports the collector of customs will issue to each such vessel admeasured in his district a "Special Appendix to Certificate of Registry of American Passenger Vessels" (Form 1265–A), showing the tonnage of passenger spaces on a deck not a deck to the hull and exempted from inclusion in tonnage by the regulations in this part.

(b) The same requirement applies to vessels operating from his district not previously furnished such an appendix.

(c) At the end of each quarter, the collector must report to this Bureau the official number and name of every vessel in his district to which such appendix has been issued during that period.

§ 2.62 Measurement of Government vessels.

When the tonnage of Government colliers, transports, supply ships, repair ships, etc., is requested this tonnage shall be ascertained in accordance with the rules in this part, but the following requirements will be waived: The marking of the vessel's name and home port, official number (none required), and net tonnage; the requirements as to size and conditions of crew space, and the certifications of deducted spaces on the beam over the doorway. The plate over the door designating its use is sufficient for such certifications.

§ 2.63 Foreign vessels.

A mode of measurement for the tonnage of vessels substantially similar to that of the United States having been adopted by Belgium, Cambodia, Central African Republic, Denmark, Federal Republic of Germany, Finland, France, Gabon Republic, Great Britain, Greece, Iceland, Israel, Italy, Japan, Liberia, Malagasy Republic, the Netherlands, Norway, Panama, Polish People's Republic, Portugal, Republic of Senegal, Spain, Sweden, Union of Soviet Socialist Republics, Venezuela, and Yugoslavia, and the like courtesy having been extended to vessels of the United States, it is directed that merchant vessels of these countries, the registers of which indicate their gross and net tonnages under their present laws, shall be taken in ports of the United States to be of the tonnages so expressed in their documents. Vessels of foreign countries other than the aforesaid are to be measured according to the laws of the United States.

(R.S. 4154; 46 U.S.C. 81)

§ 2.64 Adjustment and correction of tonnage.

(a) The tonnage shown in the document of a vessel of the United States shall not be changed except as provided in this section.

(b) If there has been a change of structure or use of space that affects tonnage, application for adjustment of such tonnage shall be made as provided in § 2.8. If the owner claims that the tonnage shown in the vessel's document is erroneous, he shall make application in writing to the collector of customs of the district in which the vessel is located for adjustment of such tonnage. Any application for adjustment of tonnage shall be accompanied by appropriate drawings as required by § 2.9 and by a precise statement of the changes made or assignments of error.

(1) The collector shall not readmeasure unaltered spaces or spaces for which no error is claimed, but shall use the figures shown on the latest record of tonnage admeasurement (Form 1410 or Form 1410–A) unless there is an obvious error thereon. If the vessel was previously admeasured at a port other than the port at which application for adjustment of tonnage is made, the latest record of tonnage admeasurement shall be forwarded to the collector at the latter port upon his request. Such record shall be returned without alteration after a final decision has been reached.

(2) The collector shall make such admeasurement as is necessary to determine the proper tonnage of the vessel. Where the tonnage is found to be different from that shown in the vessel's document, he shall prepare a new record of admeasurement.

(3) If the change of tonnage is due to a change in structure or use of space, the outstanding document shall be surrendered in accordance with the provisions of law and regulations applicable to the surrender of documents. Any document thereafter issued shall show the adjusted tonnage.

(4) If the application for adjustment of tonnage is based on a claim of error, the application and all papers referred to in subparagraphs (1) and (2) of this paragraph shall be forwarded to the Commissioner of Customs. The Commissioner will review the application and advise the collector of his decision.

§ 2.65 Figures.

(c) If an error in the tonnage shown on the document is detected by a collector he shall proceed as though the owner had made application to him for adjustment of tonnage because of the error.

(d) If there is an obvious typographical error in the tonnage shown on the document, the collector shall make the necessary correction.

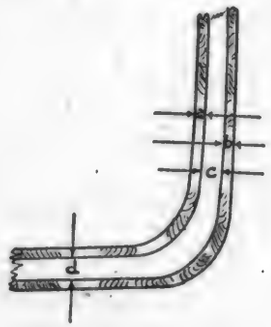

FIGURE 1.

a: THICKNESS OF CEILING
b: THICKNESS OF OUTER PLANKING
c: DEPTH OF SIDE FRAMES
d: DEPTH OF BOTTOM FRAMES OR FLOORS

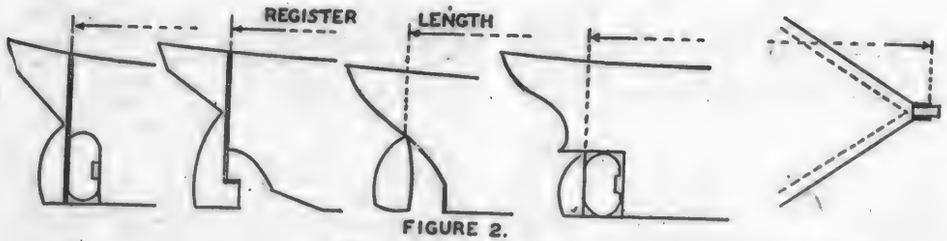

FIGURE 2.

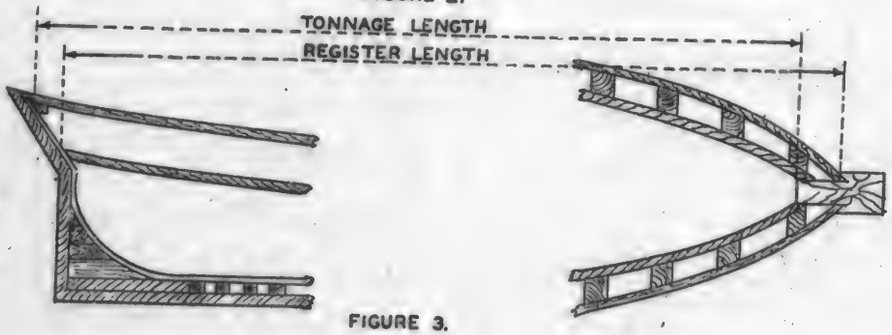

FIGURE 3.

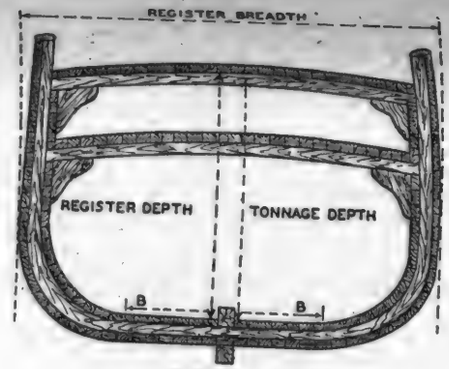

FIGURE 4.

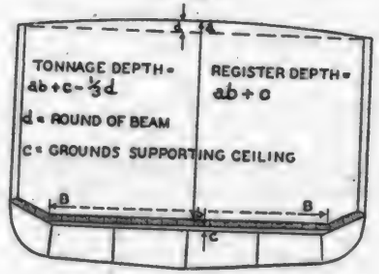

FIGURE 5.

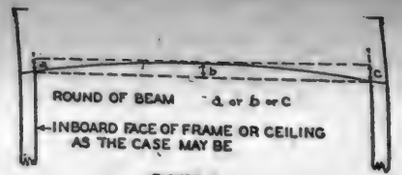

FIGURE 6

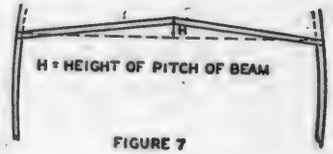

FIGURE 7

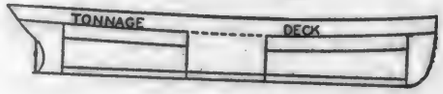

FIGURE 8

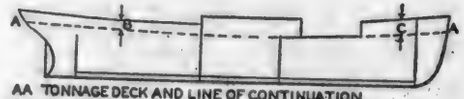

FIGURE 9

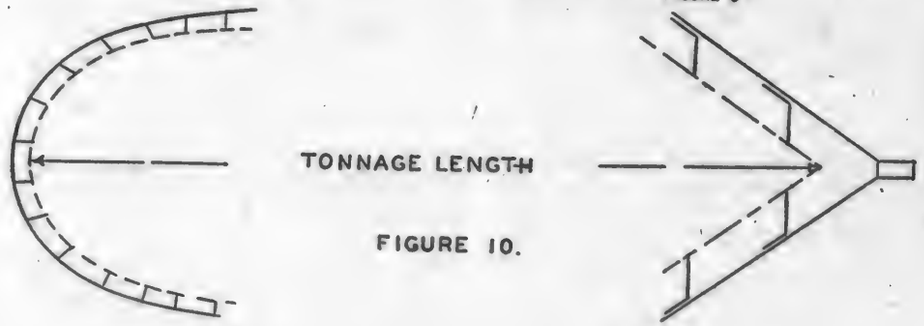

FIGURE 10.

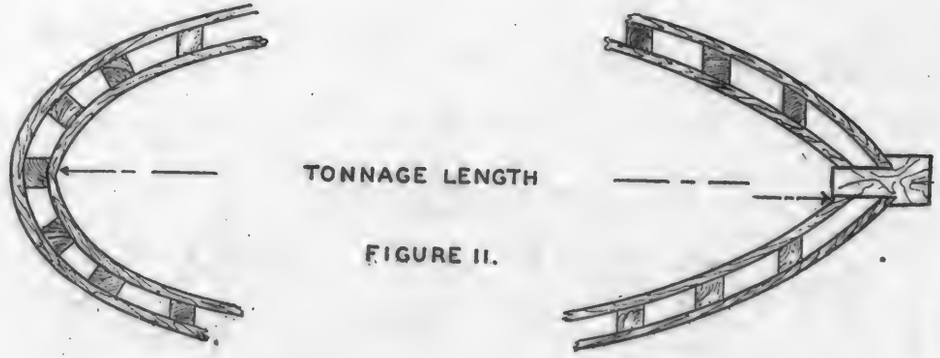

FIGURE 11.

these countries, the registers of which tonnage.

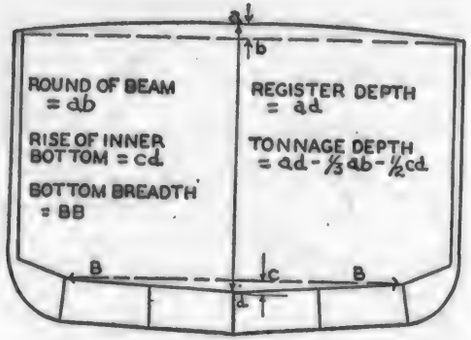

FIGURE 12.

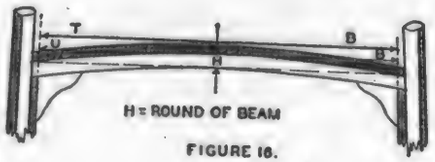

FIGURE 16.

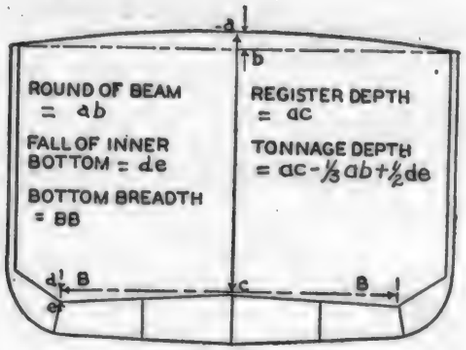

FIGURE 13.

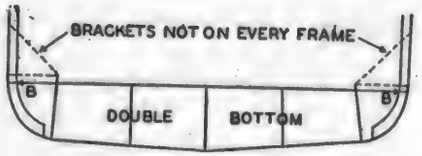

FIGURE 17.

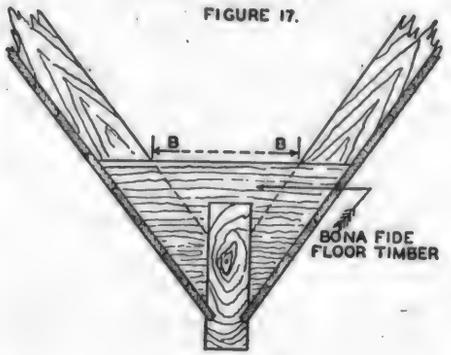

FIGURE 18

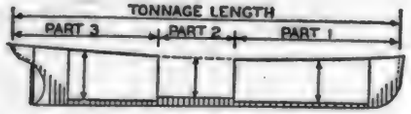

FIGURE 14.

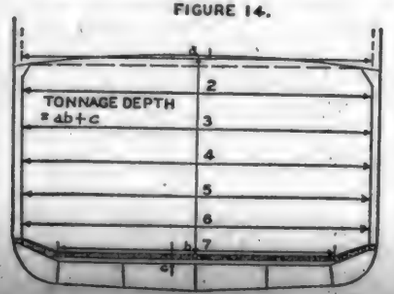

FIGURE 15.

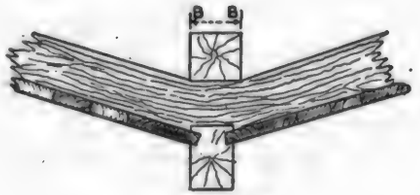

FIGURE 19.

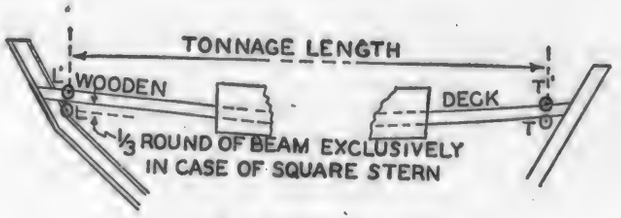

FIGURE 20.

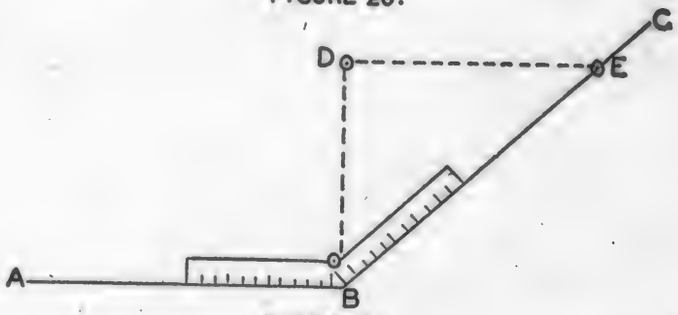

FIGURE 21.

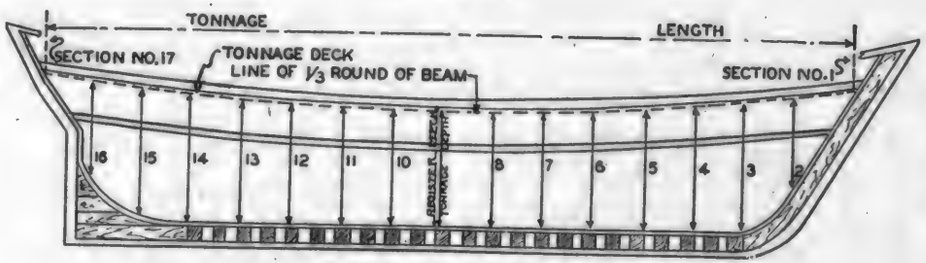

FIGURE 22

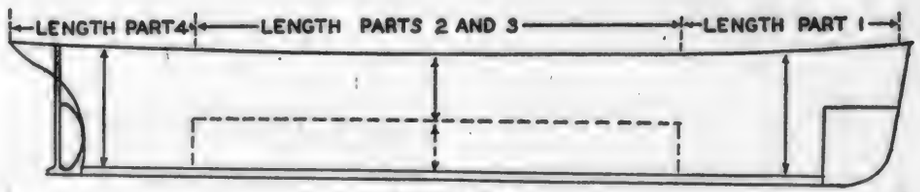

FIGURE 23.

FIGURE 24.

FIGURE 18.

FIGURE 24.

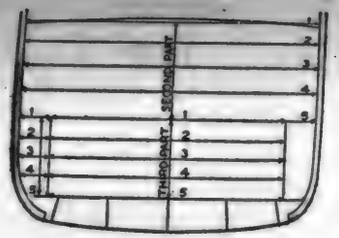

FIGURE 25

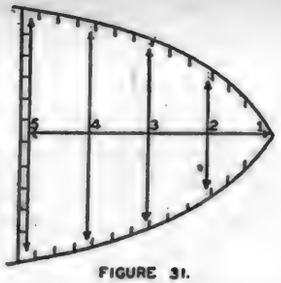

FIGURE 31.

FIGURE 26

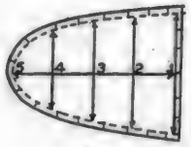

FIGURE 32.

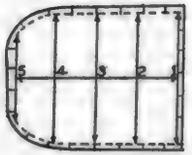

FIGURE 33.

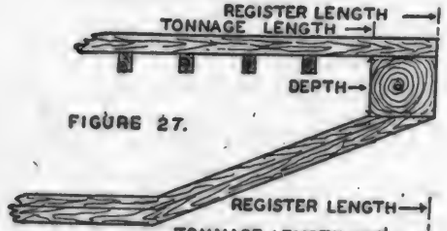

FIGURE 27.

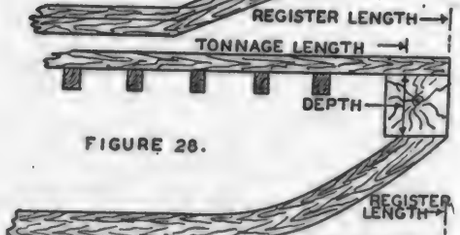

FIGURE 28.

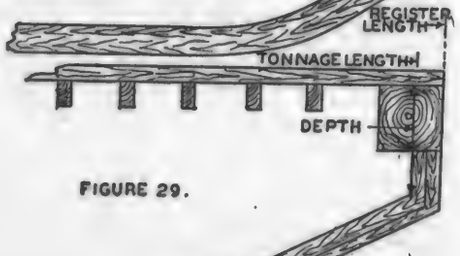

FIGURE 29.

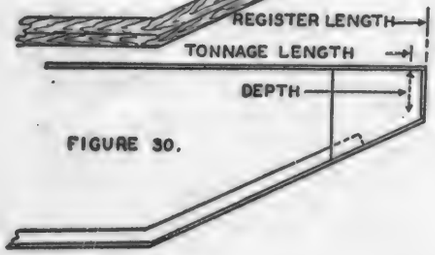

FIGURE 30.

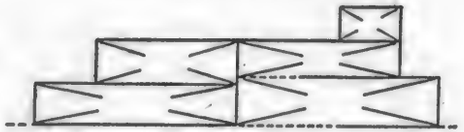

FIGURE 34.

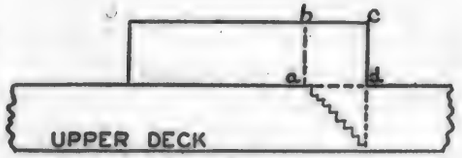

FIGURE 35.

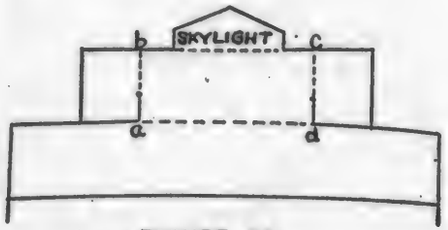

FIGURE 36.

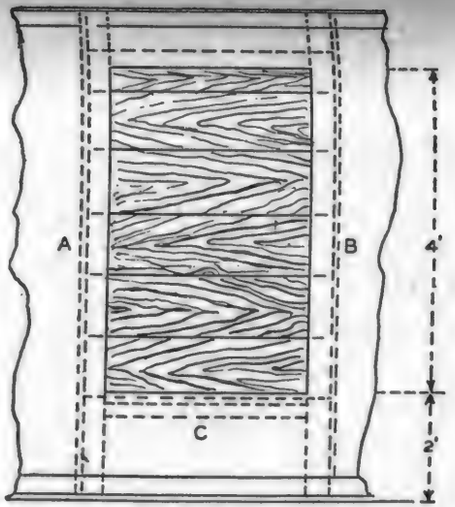

FIGURE 37.

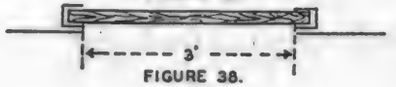

FIGURE 38.

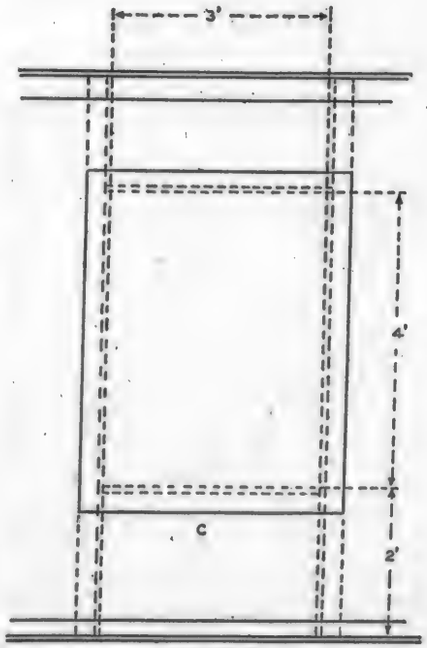

FIGURE 39

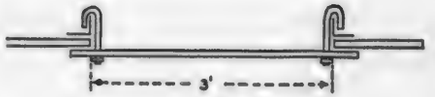

FIGURE 40

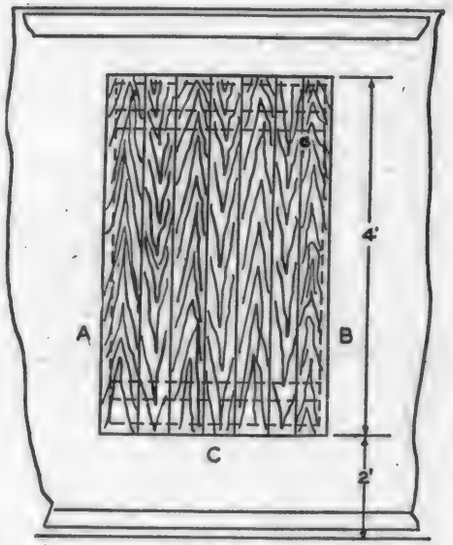

FIGURE 41.

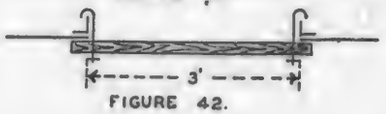

FIGURE 42.

FIGURE 43.

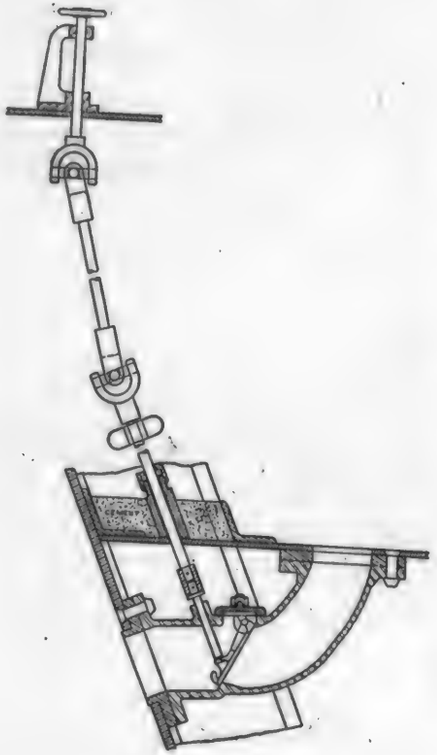

FIGURE 44.

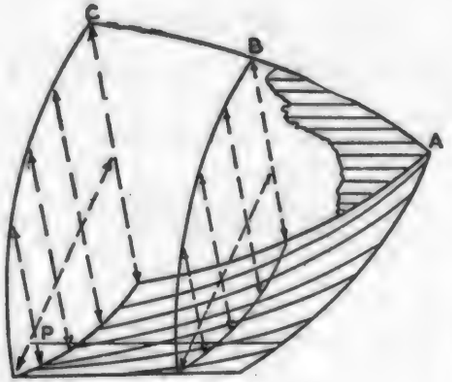

FIGURE 47.

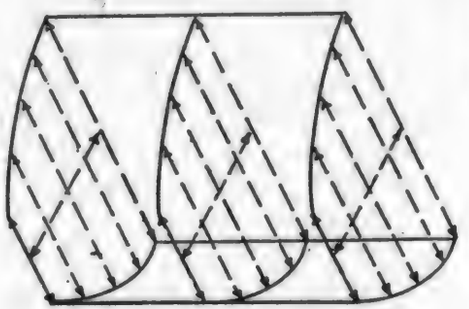

FIGURE 48.

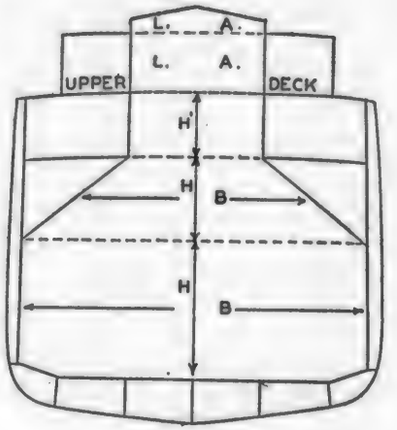

FIGURE 50.

H + H = HEIGHT OF MAIN SPACE
H' = HEIGHT TWEEN CROWN & UPPER DK.
B = BREADTH
L. A. = LIGHT AND AIR SPACE ABOVE UPPER DK.

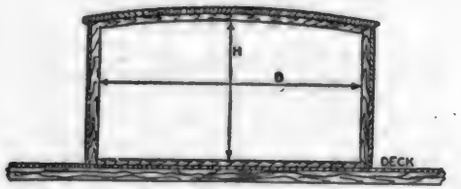

FIGURE 45.

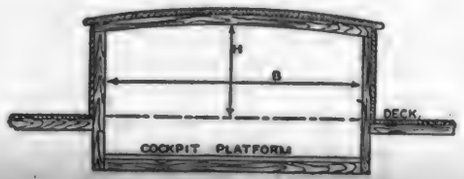

FIGURE 46.

H = HEIGHT OF OPENING
B = BREADTH OF OPENING

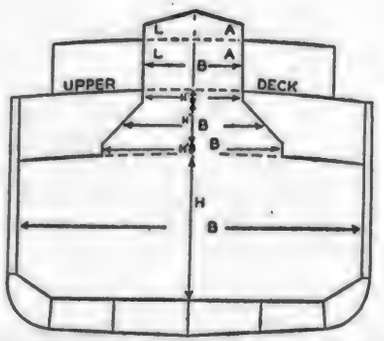

FIGURE 49.

H = HEIGHT OF MAIN SPACE
H' + H' + H' = HEIGHT BETWEEN CROWN AND UPPER DECK
L. A. = LIGHT AND AIR SPACE ABOVE UPPER DECK
B = BREADTH

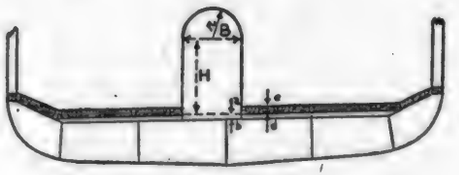

FIGURE 51.

ab = cd = THICKNESS OF CEILING

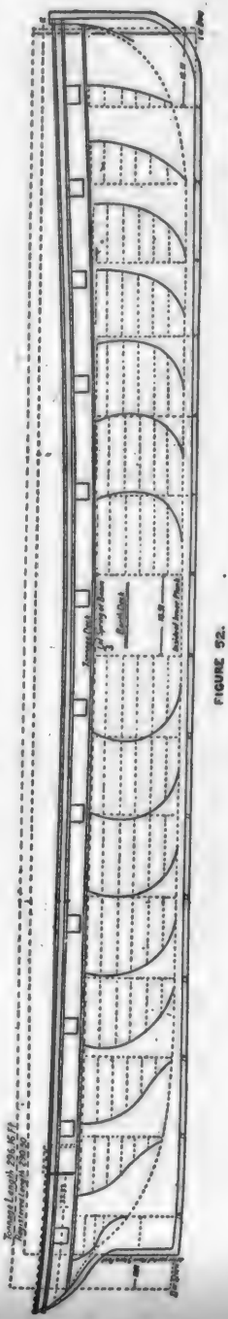

FIGURE 52.

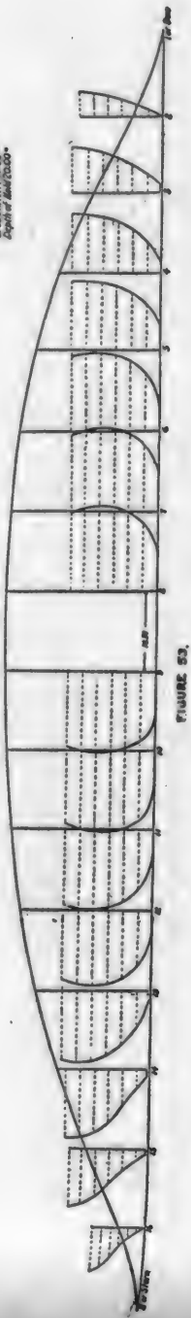

FIGURE 53.

§ 2.66 Conversion tables.

REDUCTION OF TONS TO CUBIC METERS. CON

§ 2.66 Conversion tables.

(a) For finding the decimal equivalent of inches and for converting tons into cubic meters, and vice versa, the following tables will be found useful:

DECIMAL EQUIVALENT OF INCHES

	Equivalents in decimals of a foot
11 inches	0.92
10 inches	.83
9 inches	.75
8 inches	.67
7 inches	.58
6 inches	.50
5 inches	.42
4 inches	.33
3 inches	.25
2 inches	.17
1 inch	.08
¾ inch	.06
½ inch	.04
¼ inch	.02

REDUCTION OF TONS TO CUBIC METERS

	Meters
1 ton	2.83
2 tons	5.66
3 tons	8.49
4 tons	11.32
5 tons	14.15
6 tons	16.98
7 tons	19.81
8 tons	22.64
9 tons	25.47
10 tons	28.30
11 tons	31.13
12 tons	33.96
13 tons	36.79
14 tons	39.62
15 tons	42.45
16 tons	45.28
17 tons	48.11
18 tons	50.94
19 tons	53.77
20 tons	56.60
21 tons	59.43
22 tons	62.26
23 tons	65.09
24 tons	67.92
25 tons	70.75
26 tons	73.58
27 tons	76.41
28 tons	79.24
29 tons	82.07
30 tons	84.90
31 tons	87.73
32 tons	90.56
33 tons	93.39
34 tons	96.22
35 tons	99.05
36 tons	101.88
37 tons	104.71
38 tons	107.54
39 tons	110.37
40 tons	113.20

REDUCTION OF TONS TO CUBIC METERS—Con.

	Meters
41 tons	116.03
42 tons	118.86
43 tons	121.69
44 tons	124.52
45 tons	127.35
46 tons	130.18
47 tons	133.01
48 tons	135.84
49 tons	138.67
50 tons	141.50
51 tons	144.33
52 tons	147.16
53 tons	149.99
54 tons	152.82
55 tons	155.65
56 tons	158.48
57 tons	161.31
58 tons	164.14
59 tons	166.97
60 tons	169.80
61 tons	172.63
62 tons	175.46
63 tons	178.29
64 tons	181.12
65 tons	183.95
66 tons	186.78
67 tons	189.61
68 tons	192.44
69 tons	195.27
70 tons	198.10
71 tons	200.93
72 tons	203.76
73 tons	206.59
74 tons	209.42
75 tons	212.25
76 tons	215.08
77 tons	217.91
78 tons	220.74
79 tons	223.57
80 tons	226.40
81 tons	229.23
82 tons	232.06
83 tons	234.89
84 tons	237.72
85 tons	240.55
86 tons	243.38
87 tons	246.21
88 tons	249.04
89 tons	251.87
90 tons	254.70
91 tons	257.53
92 tons	260.36
93 tons	263.19
94 tons	266.02
95 tons	268.85
96 tons	271.68
97 tons	274.51
98 tons	277.34
99 tons	280.17
100 tons	283.00

(b) To reduce cubic meters to tons divide the number of cubic meters in question by 2.83, or multiply it by the factor 0.353.

§ 2.67 Table A of common intervals when tonnage depth is 16 feet or less.

TABLE A

Showing in feet the common interval and ⅓ common intervals between tonnage breadths, corresponding to different tonnage depths, when the tonnage depth at the middle of the tonnage length does not exceed 16 feet.

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
2.00	0.500	0.17
2.05	.512	.17
2.10	.525	.18
2.15	.537	.18
2.20	.550	.18
2.25	.562	.19
2.30	.575	.19
2.35	.587	.20
2.40	.600	.20
2.45	.612	.20
2.50	.625	.21
2.55	.637	.21
2.60	.650	.22
2.65	.662	.22
2.70	.675	.23
2.75	.687	.23
2.80	.700	.23
2.85	.712	.24
2.90	.725	.24
2.95	.737	.25
3.00	.750	.25
3.05	.762	.25
3.10	.775	.26
3.15	.787	.26
3.20	.800	.27
3.25	.812	.27
3.30	.825	.28
3.35	.837	.28
3.40	.850	.28
3.45	.862	.29
3.50	.875	.29
3.55	.887	.30
3.60	.900	.30
3.65	.912	.30
3.70	.925	.31
3.75	.937	.31
3.80	.950	.32
3.85	.962	.32
3.90	.975	.33
3.95	.987	.33
4.00	1.000	.33
4.05	1.012	.34
4.10	1.025	.34
4.15	1.037	.35
4.20	1.050	.35
4.25	1.062	.35
4.30	1.075	.36
4.35	1.087	.36
4.40	1.100	.37
4.45	1.112	.37
4.50	1.125	.37
4.55	1.137	.38
4.60	1.150	.38
4.65	1.162	.39
4.70	1.175	.39
4.75	1.187	.40
4.80	1.200	.40
4.85	1.212	.40
4.90	1.225	.41
4.95	1.237	.41
5.00	1.250	.42
5.05	1.262	.42

TABLE A—Continued

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
5.10	1.275	0.43
5.15	1.287	.43
5.20	1.300	.43
5.25	1.312	.44
5.30	1.325	.44
5.35	1.337	.45
5.40	1.350	.45
5.45	1.362	.45
5.50	1.375	.46
5.55	1.387	.46
5.60	1.400	.47
5.65	1.412	.47
5.70	1.425	.48
5.75	1.437	.48
5.80	1.450	.48
5.85	1.462	.49
5.90	1.475	.49
5.95	1.487	.50
6.00	1.500	.50
6.05	1.512	.50
6.10	1.525	.51
6.15	1.537	.51
6.20	1.550	.52
6.25	1.562	.52
6.30	1.575	.53
6.35	1.587	.53
6.40	1.600	.53
6.45	1.612	.54
6.50	1.625	.54
6.55	1.637	.55
6.60	1.650	.55
6.65	1.662	.55
6.70	1.675	.56
6.75	1.687	.56
6.80	1.700	.57
6.85	1.712	.57
6.90	1.725	.58
6.95	1.737	.58
7.00	1.750	.58
7.05	1.762	.59
7.10	1.775	.59
7.15	1.787	.60
7.20	1.800	.60
7.25	1.812	.60
7.30	1.825	.61
7.35	1.837	.61
7.40	1.850	.62
7.45	1.862	.62
7.50	1.875	.63
7.55	1.887	.63
7.60	1.900	.63
7.65	1.912	.64
7.70	1.925	.64
7.75	1.937	.65
7.80	1.950	.65
7.85	1.962	.65
7.90	1.975	.66
7.95	1.987	.66
8.00	2.000	.67
8.05	2.012	.67
8.10	2.025	.68
8.15	2.037	.68
8.20	2.050	.68
8.25	2.062	.69
8.30	2.075	.69
8.35	2.087	.70
8.40	2.100	.70
8.45	2.112	.70
8.50	2.125	.71
8.55	2.137	.71
8.60	2.150	.72
8.65	2.162	.72
8.70	2.175	.73
8.75	2.187	.73
8.80	2.200	.73
8.85	2.212	.74

TABLE A—Continued

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
8.90	2.225	0.74
8.95	2.237	.75
9.00	2.250	.75
9.05	2.262	.75
9.10	2.275	.76
9.15	2.287	.76
9.20	2.300	.77
9.25	2.312	.77
9.30	2.325	.78
9.35	2.337	.78
9.40	2.350	.78
9.45	2.362	.79
9.50	2.375	.79
9.55	2.387	.80
9.60	2.400	.80
9.65	2.412	.80
9.70	2.425	.81
9.75	2.437	.81
9.80	2.450	.82
9.85	2.462	.82
9.90	2.475	.83
9.95	2.487	.83
10.00	2.500	.83
10.05	2.512	.84
10.10	2.525	.84
10.15	2.537	.85
10.20	2.550	.85
10.25	2.562	.85
10.30	2.575	.86
10.35	2.587	.86
10.40	2.600	.87
10.45	2.612	.87
10.50	2.625	.88
10.55	2.637	.88
10.60	2.650	.88
10.65	2.662	.89
10.70	2.675	.89
10.75	2.687	.90
10.80	2.700	.90
10.85	2.712	.90
10.90	2.725	.91
10.95	2.737	.91
11.00	2.750	.92
11.05	2.762	.92
11.10	2.775	.93
11.15	2.787	.93
11.20	2.800	.93
11.25	2.812	.94
11.30	2.825	.94
11.35	2.837	.95
11.40	2.850	.95
11.45	2.862	.95
11.50	2.875	.96
11.55	2.887	.96
11.60	2.900	.97
11.65	2.912	.97
11.70	2.925	.98
11.75	2.937	.98
11.80	2.950	.98
11.85	2.962	.99
11.90	2.975	.99
11.95	2.987	1.00
12.00	3.000	1.00
12.05	3.012	1.00
12.10	3.025	1.01
12.15	3.037	1.01
12.20	3.050	1.02
12.25	3.062	1.02
12.30	3.075	1.03
12.35	8.087	1.03
12.40	3.100	1.03
12.45	3.112	1.04
12.50	3.125	1.04
12.55	3.137	1.05
12.60	3.150	1.05
12.65	3.162	1.05

TABLE A—Continued

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
12.70	3.175	1.06
12.75	3.187	1.06
12.80	3.200	1.07
12.85	3.212	1.07
12.90	3.225	1.08
12.95	3.237	1.08
13.00	3.250	1.08
13.05	3.262	1.09
13.10	3.275	1.09
13.15	3.287	1.10
13.20	3.300	1.10
13.25	3.312	1.10
13.30	3.325	1.11
13.35	3.337	1.11
13.40	3.350	1.12
13.45	3.362	1.12
13.50	3.375	1.13
13.55	3.387	1.13
13.60	3.400	1.13
13.65	3.412	1.14
13.70	3.425	1.14
13.75	3.437	1.15
13.80	3.450	1.15
13.85	3.462	1.15
13.90	3.475	1.16
1 .95	3.487	1.16
14.00	3.500	1.17
14.05	3.512	1.17
14.10	3.525	1.18
14.15	3.537	1.18
14.20	3.550	1.18
14.25	3.562	1.19
14.30	3.575	1.19
14.35	3.587	1.20
14.40	3.600	1.20
14.45	3.612	1.20
14.50	3.625	1.21
14.55	3.637	1.21
14.60	3.650	1.22
14.65	3.662	1.22
14.70	3.675	1.23
14.75	3.687	1.23
14.80	3.700	1.23
14.85	3.712	1.24
14.90	3.725	1.24
14.95	3.737	1.25
15.00	3.750	1.25
15.05	3.762	1.25
15.10	3.775	1.26
15.15	3.787	1.26
15.20	3.800	1.27
15.25	3.812	1.27
15.30	3.825	1.28
15.35	3.837	1.28
15.40	3.850	1.28
15.45	3.862	1.29
15.50	3.875	1.29
15.55	3.887	1.30
15.60	3.900	1.30
15.65	3.912	1.30
15.70	3.925	1.31
15.75	3.937	1.31
15.80	3.950	1.32
15.85	3.962	1.32
15.90	3.975	1.33
15.95	3.987	1.33
16.00	4.000	1.33
16.05	4.012	1.34
16.10	4.025	1.34
16.15	4.037	1.35
16.20	4.050	1.35
16.25	4.062	1.35
16.30	4.075	1.36
16.35	4.087	1.36
16.40	4.100	1.37
16.45	4.112	1.37

TABLE A—Continued

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
16.50	4.125	1.38
16.55	4.137	1.38
16.60	4.150	1.38
16.65	4.162	1.39
16.70	4.175	1.39
16.75	4.187	1.40
16.80	4.200	1.40
16.85	4.212	1.40
16.90	4.225	1.41
16.95	4.237	1.41
17.00	4.250	1.42
17.05	4.262	1.42
17.10	4.275	1.43
17.15	4.287	1.43
17.20	4.300	1.43
17.25	4.312	1.44
17.30	4.325	1.44
17.35	4.337	1.45
17.40	4.350	1.45
17.45	4.362	1.45
17.50	4.375	1.46
17.55	4.387	1.46
17.60	4.400	1.47
17.65	4.412	1.47
17.70	4.425	1.48
17.75	4.437	1.48
17.80	4.450	1.48
17.85	4.462	1.49
17.90	4.475	1.49
17.95	4.487	1.50
18.00	4.500	1.50
18.05	4.512	1.50
18.10	4.525	1.51
18.15	4.537	1.51
18.20	4.550	1.52
18.25	4.562	1.52
18.30	4.575	1.53
18.35	4.587	1.53
18.40	4.600	1.53
18.45	4.612	1.54
18.50	4.625	1.54
18.55	4.637	1.55
18.60	4.650	1.55
18.65	4.662	1.55
18.70	4.675	1.56
18.75	4.687	1.56
18.80	4.700	1.57
18.85	4.712	1.57
18.90	4.725	1.58
18.95	4.737	1.58
19.00	4.750	1.58
19.05	4.762	1.59
19.10	4.775	1.59
19.15	4.787	1.60
19.20	4.800	1.60
19.25	4.812	1.60
19.30	4.825	1.61
19.35	4.837	1.61
19.40	4.850	1.62
19.45	4.862	1.62
19.50	4.875	1.63
19.55	4.887	1.63
19.60	4.900	1.63
19.65	4.912	1.64
19.70	4.925	1.64
19.75	4.937	1.65
19.80	4.950	1.65
19.85	4.962	1.65
19.90	4.975	1.66
19.95	4.987	1.66
20.00	5.000	1.67
20.05	5.012	1.67
20.10	5.025	1.68
20.15	5.037	1.68
20.20	5.050	1.68
20.25	5.062	1.69

TABLE A—Continued

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
20.30	5.075	1.69
20.35	5.087	1.70
20.40	5.100	1.70
20.45	5.112	1.70
20.50	5.125	1.71
20.55	5.137	1.71
20.60	5.150	1.72
20.65	5.162	1.73
20.70	5.175	1.73
20.75	5.187	1.73
20.80	5.200	1.73
20.85	5.212	1.74
20.90	5.225	1.74
20.95	5.237	1.75
21.00	5.250	1.75
21.05	5.262	1.75
21.10	5.275	1.76
21.15	5.287	1.76
21.20	5.300	1.77
21.25	5.312	1.77
21.30	5.325	1.78
21.35	5.337	1.78
21.40	5.350	1.78
21.45	5.362	1.79
21.50	5.375	1.79
21.55	5.387	1.80
21.60	5.400	1.80
21.65	5.412	1.80
21.70	5.425	1.81
21.75	5.437	1.81
21.80	5.450	1.82
21.85	5.462	1.82
21.90	5.475	1.83
21.95	5.487	1.83
22.00	5.500	1.83
22.05	5.512	1.84
22.10	5.525	1.84
22.15	5.537	1.85
22.20	5.550	1.85
22.25	5.562	1.85
22.30	5.575	1.86
22.35	5.587	1.86
22.40	5.600	1.87
22.45	5.612	1.87
22.50	5.625	1.88
22.55	5.637	1.88
22.60	5.650	1.88
22.65	5.662	1.89
22.70	5.675	1.89
22.75	5.687	1.90
22.80	5.700	1.90
22.85	5.712	1.90
22.90	5.725	1.91
22.95	5.737	1.91
23.00	5.750	1.92
23.05	5.762	1.92
23.10	5.775	1.93
23.15	5.787	1.93
23.20	5.800	1.93
23.25	5.812	1.94
23.30	5.825	1.94
23.35	5.837	1.95
23.40	5.850	1.95
23.45	5.862	1.95
23.50	5.875	1.96
23.55	5.887	1.96
23.60	5.900	1.97
23.65	5.912	1.97
23.70	5.925	1.98
23.75	5.937	1.98
23.80	5.950	1.98
23.85	5.962	1.99
23.90	5.975	1.99
23.95	5.987	2.00
24.00	6.000	2.00
24.05	6.012	2.00

TABLE A—Continued

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
24.10	6.025	2.01
24.15	6.037	2.01
24.20	6.050	2.02
24.25	6.062	2.02
24.30	6.075	2.03
24.35	6.087	2.03
24.40	6.100	2.03
24.45	6.112	2.04
24.50	6.125	2.04
24.55	6.137	2.05
24.60	6.150	2.05
24.65	6.162	2.05
24.70	6.175	2.06
24.75	6.187	2.06
24.80	6.200	2.07
24.85	6.212	2.07
24.90	6.225	2.08
24.95	6.237	2.08
25.00	6.250	2.08
25.05	6.262	2.09
25.10	6.275	2.09
25.15	6.287	2.10
25.20	6.300	2.10
25.25	6.312	2.10
25.30	6.325	2.11
25.35	6.337	2.11
25.40	6.350	2.12
25.45	6.362	2.12
25.50	6.375	2.13
25.55	6.387	2.13
25.60	6.400	2.13
25.65	6.412	2.14
25.70	6.425	2.14
25.75	6.437	2.15
25.80	6.450	2.15
25.85	6.462	2.15
25.90	6.475	2.16
25.95	6.487	2.16

§ 2.68 Table B of common intervals when tonnage depth exceeds 16 feet.

TABLE B

Showing in feet the common interval and ⅓ common interval between tonnage breadths, corresponding to different tonnage depths, when the tonnage depth at the middle of the tonnage length exceeds 16 feet.

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
14.00	2.333	0.78
14.05	2.341	.78
14.10	2.350	.78
14.15	2.358	.79
14.20	2.366	.79
14.25	2.375	.79
14.30	2.383	.79
14.35	2.391	.80
14.40	2.400	.80
14.45	2.408	.80
14.50	2.416	.81
14.55	2.425	.81
14.60	2.433	.81
14.65	2.441	.81
14.70	2.450	.82
14.75	2.458	.82
14.80	2.466	.82
14.85	2.475	.83
14.90	2.483	.83
14.95	2.491	.83

TABLE B—Continued

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
15.00	2.500	0.83
15.05	2.508	.84
15.10	2.516	.84
15.15	2.525	.84
15.20	2.533	.84
15.25	2.541	.85
15.30	2.550	.85
15.35	2.558	.85
15.40	2.566	.86
15.45	2.575	.86
15.50	2.583	.86
15.55	2.591	.86
15.60	2.600	.87
15.65	2.608	.87
15.70	2.616	.87
15.75	2.625	.88
15.80	2.633	.88
15.85	2.641	.88
15.90	2.650	.88
15.95	2.658	.89
16.00	2.666	.89
16.05	2.675	.89
16.10	2.683	.89
16.15	2.691	.90
16.20	2.700	.90
16.25	2.708	.90
16.30	2.716	.91
16.35	2.725	.91
16.40	2.733	.91
16.45	2.741	.91
16.50	2.750	.92
16.55	2.758	.92
16.60	2.766	.92
16.65	2.775	.93
16.70	2.783	.93
16.75	2.791	.93
16.80	2.800	.93
16.85	2.808	.94
16.90	2.816	.94
16.95	2.825	.94
17.00	2.833	.94
17.05	2.841	.95
17.10	2.850	.95
17.15	2.858	.95
17.20	2.866	.96
17.25	2.875	.96
17.30	2.883	.96
17.35	2.891	.96
17.40	2.900	.97
17.45	2.908	.97
17.50	2.916	.97
17.55	2.925	.98
17.60	2.933	.98
17.65	2.941	.98
17.70	2.950	.98
17.75	2.958	.99
17.80	2.966	.99
17.85	2.975	.99
17.90	2.983	.99
17.95	2.991	1.00
18.00	3.000	1.00
18.05	3.008	1.00
18.10	3.016	1.01
18.15	3.025	1.01
18.20	3.033	1.01
19.25	3.041	1.01
18.30	3.050	1.02
18.35	3.058	1.02
18.40	3.066	1.02
18.45	3.075	1.03
18.50	3.083	1.03
18.55	3.091	1.03
18.60	3.100	1.03
18.65	3.108	1.04
18.70	3.116	1.04
18.75	3.125	1.04
18.80	3.133	1.04

TABLE B—Continued

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
18.85	3.141	1.05
18.90	3.150	1.05
18.95	3.158	1.05
19.00	3.166	1.06
19.05	3.175	1.06
19.10	3.183	1.06
19.15	3.191	1.06
19.20	3.200	1.07
19.25	3.208	1.07
19.30	3.216	1.07
19.35	3.225	1.08
19.40	3.233	1.08
19.45	3.241	1.08
19.50	3.250	1.08
19.55	3.258	1.09
19.60	3.266	1.09
19.65	3.275	1.09
19.70	3.283	1.09
19.75	3.291	1.10
19.80	3.300	1.10
19.85	3.308	1.10
19.90	3.316	1.11
19.95	3.325	1.11
20.00	3.333	1.11
20.05	3.341	1.11
20.10	3.350	1.12
20.15	3.358	1.12
20.20	3.366	1.12
20.25	3.375	1.13
20.30	3.383	1.13
20.35	3.391	1.13
20.40	3.400	1.13
20.45	3.408	1.14
20.50	3.416	1.14
20.55	3.425	1.14
20.60	3.433	1.14
20.65	3.441	1.15
20.70	3.450	1.15
20.75	3.458	1.15
20.80	3.466	1.16
20.85	3.475	1.16
20.90	3.483	1.16
20.95	3.491	1.16
21.00	3.500	1.17
21.05	3.508	1.17
21.10	3.516	1.17
21.15	3.525	1.18
21.20	3.533	1.18
21.25	3.541	1.18
21.30	3.550	1.18
21.35	3.558	1.19
21.40	3.566	1.19
21.45	3.575	1.19
21.50	3.583	1.19
21.55	3.591	1.20
21.60	3.600	1.20
21.65	3.608	1.20
21.70	3.616	1.21
21.75	3.625	1.21
21.80	3.633	1.21
21.85	3.641	1.21
21.90	3.650	1.22
21.95	3.658	1.22
22.00	3.666	1.22
22.05	3.675	1.23
22.10	3.683	1.23
22.15	3.691	1.23
22.20	3.700	1.23
22.25	3.708	1.24
22.30	3.716	1.24
22.35	3.725	1.24
22.40	3.733	1.24
22.45	3.741	1.25
22.50	3.750	1.25
22.55	3.758	1.25
22.60	3.766	1.26

TABLE B—Continued

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
22.65	3.775	1.26
22.70	3.783	1.26
22.75	3.791	1.26
22.80	3.800	1.27
22.85	3.808	1.27
22.90	3.816	1.27
22.95	3.825	1.28
23.00	3.833	1.28
23.05	3.841	1.28
23.10	3.850	1.28
23.15	3.858	1.29
23.20	3.866	1.29
23.25	3.875	1.29
23.30	3.883	1.29
23.35	3.891	1.30
23.40	3.900	1.30
23.45	3.908	1.30
23.50	3.916	1.31
23.55	3.925	1.31
23.60	3.933	1.31
23.65	3.941	1.31
23.70	3.950	1.32
23.75	3.958	1.32
23.80	3.966	1.32
23.85	3.975	1.33
23.90	3.983	1.33
23.95	3.991	1.33
24.00	4.000	1.33
24.05	4.008	1.34
24.10	4.016	1.34
24.15	4.025	1.34
24.20	4.033	1.34
24.25	4.041	1.35
24.30	4.050	1.35
24.35	4.058	1.35
24.40	4.066	1.36
24.45	4.075	1.36
24.50	4.083	1.36
24.55	4.091	1.36
24.60	4.100	1.37
24.65	4.108	1.37
24.70	4.116	1.37
24.75	4.125	1.38
24.80	4.133	1.38
24.85	4.141	1.38
24.90	4.150	1.38
24.95	4.158	1.39
25.00	4.166	1.39
25.05	4.175	1.39
25.10	4.183	1.39
25.15	4.191	1.40
25.20	4.200	1.40
25.25	4.208	1.40
25.30	4.216	1.41
25.35	4.225	1.41
25.40	4.233	1.41
25.45	4.241	1.41
25.50	4.250	1.42
25.55	4.258	1.42
25.60	4.266	1.42
25.65	4.275	1.43
25.70	4.283	1.43
25.75	4.291	1.43
25.80	4.300	1.43
25.85	4.308	1.44
25.90	4.316	1.44
25.95	4.325	1.44
26.00	4.333	1.44
26.05	4.341	1.45
26.10	4.350	1.45
26.15	4.358	1.45
26.20	4.366	1.46
26.25	4.375	1.46
26.30	4.383	1.46
26.35	4.391	1.46
26.40	4.400	1.47

TABLE B—Continued

Tonnage depth	Common interval between breadths	½ common interval between breadths
26.45	4.408	1.47
26.50	4.416	1.47
26.55	4.425	1.48
26.60	4.433	1.48
26.65	4.441	1.48
26.70	4.450	1.48
26.75	4.458	1.49
26.80	4.46	1.49
26.85	4.475	1.49
26.90	4.483	1.49
26.95	4.491	1.50
27.00	4.500	1.50
27.05	4.508	1.50
27.10	4.516	1.51
27.15	4.525	1.51
27.20	4.533	1.51
27.25	4.541	1.51
27.30	4.550	1.52
27.35	4.558	1.52
27.40	4.566	1.52
27.45	4.575	1.53
27.50	4.583	1.53
27.55	4.591	1.53
27.60	4.600	1.53
27.65	4.608	1.54
27.70	4.616	1.54
27.75	4.625	1.54
27.80	4.633	1.54
27.85	4.641	1.55
27.90	4.650	1.55
27.95	4.658	1.55
28.00	4.666	1.56
28.05	4.675	1.56
28.10	4.683	1.56
28.15	4.691	1.56
28.20	4.700	1.57
28.25	4.708	1.57
28.30	4.716	1.57
28.35	4.725	1.58
28.40	4.733	1.58
28.45	4.741	1.58
28.50	4.750	1.58
28.55	4.758	1.59
28.60	4.766	1.59
28.65	4.775	1.59
28.70	4.783	1.59
28.75	4.791	1.60
28.80	4.800	1.60
28.85	4.808	1.60
28.90	4.816	1.61
28.95	4.825	1.61
29.00	4.833	1.61
29.05	4.841	1.61
29.10	4.850	1.62
29.15	4.858	1.62
29.20	4.866	1.62
29.25	4.875	1.63
29.30	4.883	1.63
29.35	4.891	1.63
29.40	4.900	1.63
29.45	4.908	1.64
29.50	4.916	1.64
29.55	4.925	1.64
29.60	4.933	1.64
29.65	4.941	1.65
29.70	4.950	1.65
29.75	4.958	1.65
29.80	4.966	1.66
29.85	4.975	1.66
29.90	4.983	1.66
29.95	4.991	1.66
30.00	5.000	1.67
30.05	5.008	1.67
30.10	5.016	1.67
30.15	5.025	1.68
30.20	5.033	1.68
30.25	5.041	1.68

TABLE B—Continued

Tonnage depth	Common interval between breadths	½ common interval between breadths
30.30	5.050	1.68
30.35	5.058	1.69
30.40	5.066	1.69
30.45	5.075	1.69
30.50	5.083	1.69
30.55	5.091	1.70
30.60	5.100	1.70
30.65	5.108	1.70
30.70	5.116	1.71
30.75	5.125	1.71
30.80	5.133	1.71
30.85	5.141	1.71
30.90	5.150	1.72
30.95	5.158	1.72
31.00	5.166	1.72
31.05	5.175	1.73
31.10	5.183	1.73
31.15	5.191	1.73
31.20	5.200	1.73
31.25	5.208	1.74
31.30	5.216	1.74
31.35	5.225	1.74
31.40	5.233	1.74
31.45	5.241	1.75
31.50	5.250	1.75
31.55	5.258	1.75
31.60	5.266	1.76
31.65	5.275	1.76
31.70	5.283	1.76
31.75	5.291	1.76
31.80	5.300	1.77
31.85	5.308	1.77
31.90	5.316	1.77
31.95	5.325	1.78
32.00	5.333	1.78
32.05	5.341	1.78
32.10	5.350	1.78
32.15	5.358	1.79
32.20	5.366	1.79
32.25	5.375	1.79
32.30	5.383	1.79
32.35	5.391	1.80
32.40	5.400	1.80
32.45	5.408	1.80
32.50	5.416	1.81
32.55	5.425	1.81
32.60	5.433	1.81
32.65	6.441	1.81
32.70	5.450	1.82
32.75	5.458	1.82
32.80	5.466	1.82
32.85	5.475	1.83
32.90	5.483	1.83
32.95	5.491	1.83
33.00	5.500	1.83
33.05	5.508	1.84
33.10	5.516	1.84
33.15	5.525	1.84
33.20	5.533	1.84
33.25	5.541	1.85
33.30	5.550	1.85
33.35	5.558	1.85
33.40	5.566	1.86
33.45	5.575	1.86
33.50	5.583	1.86
33.55	5.591	1.86
33.60	5.600	1.87
33.65	5.608	1.87
33.70	5.616	1.87
33.75	5.625	1.88
33.80	5.633	1.88
33.85	5.641	1.88
33.90	5.650	1.88
33.95	5.658	1.89
34.00	5.666	1.89
34.05	5.675	1.89
34.10	5.683	1.89

TABLE B—Continued

Tonnage depth	Common interval between breadths	½ common interval between breadths
34.15	5.691	1.90
34.20	5.700	1.90
34.25	5.708	1.90
34.30	5.716	1.91
34.35	5.725	1.91
34.40	5.733	1.91
34.45	5.741	1.91
34.50	5.750	1.92
34.55	5.758	1.92
34.60	5.766	1.92
34.65	5.775	1.93
34.70	5.783	1.93
34.75	5.791	1.93
34.80	5.800	1.93
34.85	5.808	1.94
34.90	5.816	1.94
34.95	5.825	1.94
35.00	5.833	1.94
35.05	5.841	1.95
35.10	5.850	1.95
35.15	5.858	1.95
35.20	5.866	1.96
35.25	5.875	1.96
35.30	5.883	1.96
35.35	5.891	1.96
35.40	5.900	1.97
35.45	5.908	1.97
35.50	5.916	1.97
35.55	5.925	1.98
35.60	5.933	1.98
35.65	5.941	1.98
35.70	5.950	1.98
35.75	5.958	1.99
35.80	5.966	1.99
35.85	5.975	1.99
35.90	5.983	1.99
35.95	5.991	2.00
36.00	6.000	2.00
36.05	6.008	2.00
36.10	6.016	2.01
36.15	6.025	2.01
36.20	6.033	2.01
36.25	6.041	2.01
36.30	6.050	2.02
36.35	6.058	2.02
36.40	6.066	2.02
36.45	6.075	2.03
36.50	6.083	2.03
36.55	6.091	2.03
36.60	6.100	2.03
36.65	6.108	2.04
36.70	6.116	2.04
36.75	6.125	2.04
36.80	6.133	2.04
36.85	6.141	2.05
36.90	6.150	2.05
36.95	6.158	2.05
37.00	6.166	2.06
37.05	6.175	2.06
37.10	6.183	2.06
37.15	6.191	2.06
37.20	6.200	2.07
37.25	6.208	2.07
37.30	6.216	2.07
37.35	6.225	2.08
37.40	6.233	2.08
37.45	6.241	2.08
37.50	6.250	2.08
37.55	6.258	2.09
38.60	6.266	2.09
37.65	6.275	2.09
37.70	6.283	2.09
37.75	6.291	2.10
37.80	6.300	2.10
37.85	6.308	2.10
37.90	6.316	2.11
37.95	6.325	2.11

TABLE B—Continued

Tonnage depth	Common interval between breadths	½ common interval between breadths
38.00	6.333	2.11
38.05	6.341	2.11
38.10	6.350	2.12
38.15	6.358	2.12
38.20	6.366	2.12
38.25	6.375	2.13
38.30	6.383	2.13
38.35	6.391	2.13
38.40	6.400	2.13
38.45	6.408	2.14
38.50	6.416	2.14
38.55	6.425	2.14
38.60	6.433	2.14
38.65	6.441	2.15
38.70	6.450	2.15
38.75	6.458	2.15
38.80	6.466	2.16
38.85	6.475	2.16
38.90	6.483	2.16
38.95	6.491	2.16
39.00	6.500	2.17
39.05	6.508	2.17
39.10	6.516	2.17
39.15	6.525	2.18
39.20	6.533	2.18
39.25	6.541	2.18
39.30	6.550	2.18
39.35	6.558	2.19
39.40	6.566	2.19
39.45	6.575	2.19
39.50	6.583	2.19
39.55	6.591	2.20
39.60	6.600	2.20
39.65	6.608	2.20
39.70	6.616	2.21
39.75	6.625	2.21
39.80	6.633	2.21
39.85	6.641	2.21
39.90	6.650	2.22
39.95	6.658	2.22
40.00	6.666	2.22
40.05	6.675	2.23
40.10	6.683	2.23
40.15	6.691	2.23
40.20	6.700	2.23
40.25	6.708	2.24
40.30	6.716	2.24
40.35	6.725	2.24
40.40	6.733	2.24
40.45	6.741	2.25
40.50	6.750	2.25
40.55	6.758	2.25
40.60	6.766	2.26
40.65	6.775	2.26
40.70	6.783	2.26
40.75	6.791	2.27
40.80	6.800	2.27
40.85	6.808	2.27
40.90	6.816	2.27
40.95	6.825	2.28
41.00	6.833	2.28
41.05	6.841	2.28
41.10	6.850	2.28
41.15	6.858	2.29
41.20	6.866	2.29
41.25	6.875	2.29
41.30	6.883	2.29
41.35	6.891	2.30
41.40	6.900	2.30
41.45	6.908	2.30
41.50	6.916	2.31
41.55	6.925	2.31
41.60	6.933	2.31
41.65	6.941	2.31
41.70	6.950	2.32
41.75	6.958	2.32
41.80	6.966	2.32

TABLE B—Continued

Tonnage depth	Common interval between breadths	½ common interval between breadths
41.85	6.975	2.33
41.90	6.983	2.33
41.95	6.991	2.33
42.00	7.000	2.33
42.05	7.008	2.34
42.10	7.016	2.34
42.15	7.025	2.34
42.20	7.033	2.34
42.25	7.041	2.35
42.30	7.050	2.35
42.35	7.058	2.35
42.40	7.066	2.36
42.45	7.075	2.36
42.50	7.083	2.36
42.55	7.091	2.36
42.60	7.100	2.37
42.65	7.108	2.37
42.70	7.116	2.37
42.75	7.125	2.38
42.80	7.133	2.38
42.85	7.141	2.38
42.90	7.150	2.38
42.95	7.158	2.39
43.00	7.166	2.39
43.05	7.175	2.39
43.10	7.183	2.39
43.15	7.191	2.40
43.20	7.200	2.40
43.25	7.208	2.40
43.30	7.216	2.41
43.35	7.225	2.41
43.40	7.233	2.41
43.45	7.241	2.41
43.50	7.250	2.42
43.55	7.258	2.42
43.60	7.266	2.42
43.65	7.275	2.43
43.70	7.283	2.43
43.75	7.291	2.43
43.80	7.300	2.43
43.85	7.308	2.44
43.90	7.316	2.44
43.95	7.325	2.44
44.00	7.333	2.44
44.05	7.341	2.45
44.10	7.350	2.45
44.15	7.358	2.45
44.20	7.366	2.46
44.25	7.375	2.46
44.30	7.383	2.46
44.35	7.391	2.46
44.40	7.400	2.47
44.45	7.408	2.47
44.50	7.416	2.47
44.55	7.425	2.48
44.60	7.433	2.48
44.65	7.441	2.48
44.70	7.450	2.48
44.75	7.458	2.49
44.80	7.466	2.49
44.85	7.475	2.49
44.90	7.483	2.49
44.95	7.491	2.50
45.00	7.500	2.50
45.05	7.508	2.50
45.10	7.516	2.51
45.15	7.525	2.51
45.20	7.533	2.51
45.25	7.541	2.51
45.30	7.550	2.52
45.35	7.558	2.52
45.40	7.566	2.52
45.45	7.575	2.53
45.50	7.583	2.53
45.55	7.591	2.53
45.60	7.600	2.53
45.65	7.608	2.54

TABLE B—Continued

Tonnage depth	Common interval between breadths	½ common interval between breadths
45.70	7.616	2.54
45.75	7.625	2.54
45.80	7.633	2.54
45.85	7.641	2.55
45.90	7.650	2.55
45.95	7.658	2.55

§ 2.69 Definitions of enclosures on or above the upper deck.

Break. A break is the space above the line of the under side of the upper deck when that deck is cut off and continued at a higher elevation. The height of a break is the distance from the said line to the under side of the break deck.

Bridge. A decked erection usually from 6 to 8 feet in height and of undefined length, fitted about amidships and extending from side to side over the upper deck of a vessel.

Chart house. A house, room or space designated for the purpose of navigation in connection with the stowage and use of charts and navigating instruments necessary to the plotting of the course of the vessel.

Deck house (formerly called roundhouse). An erection on or above the upper deck but not extending from side to side of the vessel, as is the case with a bridge, a forecastle, a poop, or raised quarter-deck. For descriptive purposes on vessel documents, spaces not extending from side to side of the vessel, such as cabin trunks, and closed-in spaces over the holds of motorboats, etc., may be classed as deck houses.

Excess hatchways. The difference between one-half of 1 percent of the gross tonnage exclusive of hatchways and the aggregate tonnage of the hatchways.

Forecastle. A structure on and located at the extreme forward end of the upper deck and having its sides completely enclosed by a continuation upward of the vessel's outer skin.

Light and air spaces. The portion of the spaces within the casings around the boiler and engine hatches and above the upper deck to the hull of a vessel when used for admission of light and air to the boilers or machinery below.

Poop. A structure on and located at the extreme after end of the upper deck and having its sides completely enclosed by a continuation upward of the vessel's outer skin.

Radio house or space. A structure or space in which the radio apparatus is installed and which may or may not provide accommodations for the operator or operators when off duty.

Side house. A small house at the side of the upper, forecastle, bridge, or poop deck, etc., of a vessel.

Superstructure. Any superstructure the breadth of which (at all points throughout its length) is approximately equivalent to the breadth of the upper deck, and the side frames of which are entirely independent of the main frames of the vessel. This definition is not applicable to forecastle, bridge, or poop.

§ 2.70 Definitions of items of deduction.

Anchor gear. The space below deck occupied by chains or cables, machinery, etc., for handling the anchor.

Boatswain's stores. The spaces for storing paints, oils, blocks, hawsers, rigging, deck gear, etc., in charge of the boatswain and for daily use on the vessel.

Chart house. (See definition in § 2.69.)

Crew spaces. The space appropriated exclusively to the use of the crew of a vessel, except such spaces as the engineer's workshop, carpenter shop, plumber shop, butcher shop, etc., wherever situated. The total of all crew-space deductions will be shown on vessel's documents under the head of "Crew space."

Master's cabin. A space for the exclusive use of the master, consisting of sleeping room, bathroom, dressing room, office, and passageways serving his accommodations.

Radio house. (See definition in § 2.69.)

Steering gear. The space below deck occupied by machinery, fittings, etc., for operating the steering gear.

Storage of sails. The space in a vessel propelled wholly by sails used exclusively for storing the same, subject to the limitation of 2½ percent of the vessel's gross tonnage.

§ 2.71 Definitions of structural terms, etc.

After perpendicular. A vertical straight line at the after edge of the rudder post.

Athwart; athwartship. In a transverse direction; from side to side at right angles to the fore and aft center line of a vessel.

Batten. A board several inches in breadth, usually fitted on the side frames in holds and between decks of vessels instead of ceiling.

Beam. An athwart member supporting a portion of a deck. Also the breadth of the vessel.

Between decks. For measurement purposes it is the space between the second and third and third and fourth decks, etc., the decks being numbered from below.

Body plan. A drawing consisting of a pair of half transverse elevations or end views of a vessel, both having a common vertical middle line, so that the right-hand side represents the vessel as seen from ahead and the left-hand side as seen from astern. On the body plan appear the forms of the various cross sections. The curvature of the rail and deck lines at the sides, and with the water lines, buttock lines, and diagonal lines indicated as straight lines.

Booby hatch. A small companion fitted with a sliding top.

Break in double bottom. The point where the line of the inner bottom is broken by being either raised or lowered from the normal line of same.

Bulkhead. Bulkheads are partitions by which compartments, etc., are formed, or the hold of a vessel is divided.

Bulwark. A term applied to the strake of shell plating or the side planking above the weather deck and usually extends between the forecastle and the bridge or the bridge and the poop.

Ceiling. The covering of wood planking on the inboard face of a vessel's side frames, bottom frames, floor timbers, and sometimes on the under side of deck beams.

Cellular double bottom. A term applied when the double bottom is divided into numerous compartments by the floors and longitudinals.

Coaming. The vertical boundary around a hatch, skylight, etc., the "sill" below a tonnage opening in a bulkhead.

Cockpit. A space at the bottom of which is a platform sunk below the line of the upper deck on small craft.

Companion. A small structure sheltering a deck opening affording entrance to a companionway.

Companionway. A stairway or ladderway leading to a space above or below.

Covering board. A plank or a strake of planking fitted horizontally on top of frame heads at the line of weather deck.

Crown. A term sometimes used to denote the round up or camber of a deck.

Deck hook. A wooden hook or knee on the level of deck beams on which the extreme forward ends of deck planks rest and to which they are fastened. On iron or steel vessels, a plate connecting the extreme ends of deck stringer plates.

Depth of frame. The depth of a bottom frame is its perpendicular height. (See d, Figure 1 (§ 2.65)). The depth of a side frame is the athwart distance between its inboard and outboard face.

Double bottom. Compartments at bottom of ship between inner and outer bottom plating, used for ballast tanks, water, fuel oil, etc.

Fidley hatch. Hatch around smokestack and uptake.

Flange. Portion of a plate or shape at, or nearly at right angles to main portion.

Flare. A spreading outward and upward.

Floor or floor timber. The lowermost piece of timber connecting the main frames, notched to fit over the keel or keelson and extending the full depth of the frames to which it is fastened. In an iron or steel vessel a plate placed vertically in the bottom, extending from bilge to bilge, in way of each frame, to which it (the frame) is connected. In double bottoms of the usual construction it extends from the outer to the inner bottom thereof.

Frame. One of the numerous transverse (longitudinal in Isherwood-type vessels) "ribs" that form the framing of a vessel.

Frame bracket. A plate connecting a side frame to the margin plate.

Freeing port. An opening in the bulwark or shell plating between the shelter and upper decks for discharging large quantities of water which may be shipped.

General arrangement plans. Plans showing the various quarters, spaces and compartments into which a vessel is usually divided.

Gudgeon. Fittings on the sternpost to take the rudder pintles.

Gunwale. A term applied to the line where an upper deck stringer intersects the shell.

Hatchway. An aperture in a vessel's deck through which cargo is laden or discharged; in common practice the term "hatch" is also applied.

Hold. For admeasurement purposes, that portion of the vessel below the tonnage deck.

Horn timber. The center line frame in the stern of a wooden vessel, extending aft from the sternpost.

Inboard profile. Drawing of a vessel cut vertically through its longitudinal center line, showing its forward and after perpendiculars, line of deck at center and side, height of decks, tanks, height of bottom frames or floors and their spacing, assignment of various spaces, machinery, etc.

Inner bottom. Plating forming the upper boundary of the double bottom. Also called the tank top.

Keel. In wooden and composite vessels it is composed of pieces of timber and extends from stem to sternpost and is the bottom member of the vessel's structure. In iron or steel vessels it consists of long bars fitted vertically or of plates fitted horizontally at the middle line.

Keelson. In wooden vessels the keelson is composed (like the keel) of various pieces of timber placed on the bottom frames directly over and in line with the keel and extending all fore and aft. In iron or steel vessels the middle-line keelson is the keelson at the center line, directly over the keel.

Length between perpendiculars. The length of a vessel measured from the forward edge of the stem where it intersects the load water line to the after perpendicular.

Length over all. The length of a vessel measured from the foremost part of the stem to the aftermost point of the stern.

Limber strake. The fore and aft plank of bottom ceiling laid next to the keelson.

Longitudinal framing. A system of construction in which, in conjunction with deep web frames, the main frames are run fore and aft instead of athwartships.

Main rail. Rail fitted on the upper edge of bulwark plating, or upon the stanchions surrounding an upper deck.

Margin plate. The outer boundary of the inner bottom, connecting it to the shell plating at the bilge.

Midship cross section. A drawing of a vessel cut athwartship at about midlength, showing moulded depth, moulded breadth, round or pitch of beam, depth of side and bottom frames, floors, etc.

Orlop deck. The lowest partial deck.

Outboard. Away from the center line, towards the side of the vessel.

Pintle. Fitting or pin on the rudder which turns in a gudgeon.

Planking. A term applied to wood decks and to the outside planking of wood or composite vessels.

Plating. The plates of the shell, decks, bulkheads, etc.

Quadrant. A casting, forging or built-up frame in the shape of a sector of a circle attached to the rudder stock and through which the steering gear leads turn the rudder.

Rabbet. A groove or channel cut in a piece of timber to take the edge of a plank, or the ends of a number of planks.

Rake of the bow. The inclination of the line of the stem from the forward perpendicular.

Rake of the stern timber. Its (stern timber) inclination from the after perpendicular.

Reverse frame. An angle bar or other shape riveted to the top of floors and/or the inner edge of a transverse frame to reinforce it.

Rudder post. See sternpost.

Rudder stock. The main piece of the rudder frame, to which the pintles are connected and to the upper end of which the quadrant or tiller is fitted.

Samson post. A heavy vertical post that supports cargo booms.

Scantlings. Dimensions of various members that are used in the construction of a vessel.

Scupper. A round or oval aperture usually fitted in decks for the purpose of drainage.

Settling tanks. Oil tanks used for separating entrained water from the oil. The oil is allowed to stand for a time, to permit the water to settle at the bottom when it is drained or pumped off.

Shaft tunnel. Enclosed alley-way around propeller shaft.

Shelf. A fore and aft timber fitted to the frames and forming a support for the ends of the deck beams.

Shell plating. The plates forming the outer skin of the hull.

Sheer. The amount by which the height of the weather deck at the forward and after perpendiculars exceeds this height at the mid-perpendicular.

Skin. A term usually applied to the outside planking or plating.

Skylight. A built-up frame of wood or metal having glass lights fitted in the top and installed over a deck opening for the purpose of furnishing light and air to the spaces below.

Stem. In the case of wooden vessels, it is the heavy piece of timber at which the outside planking terminates at the forward end of the hull. In iron or steel vessels it is the heavy piece of iron or steel extending from the keel to above the uppermost weather deck, and forming the extreme fore end of a vessel.

Stern. The after end of a vessel.

Sternpost (main). In wooden vessels, the piece of timber extending from the after end of the keel to the uppermost deck and to which the rudder braces are fixed to receive the pintles by which the rudder is hung. In iron or steel sailing vessels, paddle and twin-screw steamers, the heavy forging or casting of iron or steel extending from the after end of the keel (to which it is scarfed) to an appropriate distance within the hull; in single screw steamers, the after part of the stern frame.

Stiffener. An angle bar, T-bar, channel bar, etc., used to stiffen plating of the bulkhead, etc.

Strake. A fore and aft continuous course or row of shell or other plating or planking.

Tank top. Plating forming the top of a double bottom. The inner bottom.

Transom. A floor plate extending across the vessel at the forward side of the sternpost and attached thereto.

Transverse framing. Athwartship and vertical members forming the vessel's framing. Opposite to the longitudinal system of framing.

Tumble home. An inboard sloping of the vessel's side. (The opposite to flare.)

Web frame. Members built of plates

is usually divided.

ships.

Web frame. Members built of plates and angles, spaced at required intervals, and fitted in lieu of main frames for the purpose of local strengthening.

Longitudinal. A fore and aft vertical member running parallel, or nearly parallel, to the center vertical keel through the double bottom.

Wheelhouse (or pilot house). The house in which a steering wheel is located for the steering and navigation of the vessel.

§ 2.72 Suez and Panama Canal certificates.

Suez Canal special tonnage certificates and also Panama Canal tonnage certificates will be issued, upon application, by collectors of customs to American shipowners requiring them for ships which will use the said canals. Collectors of customs will also issue such tonnage certificates to public vessels of the United States requiring them.

PART 3—DOCUMENTATION OF VESSELS

GENERAL.

Sec.
3.1 General definitions.
3.2 Vessels entitled to documents.
3.3 Provisional registers.
3.4 Yachts entitled to documents.
3.5 Vessels exempt from documentation.
3.6 Marine documents; kinds of.
3.7 Marine documents; execution of.
3.8 Marine documents; new.
3.9 Marine documents to include dimensions and tonnage.
3.10 Registers.
3.11 Enrollment and license; coasting trade and fisheries.
3.12 Builder's certificates.
3.13 Official number and signal letters.
3.14 Evidence as to marking of official number, net tonnage, name, and hailing port.
3.16 Name and hailing port on documented vessel.
3.17 Home port; definition; change of.
3.18 Forms of oath of owner and master for documentation.
3.19 Citizenship; documentation.
3.20 Evidence of citizenship of owners and officers.
3.21 Execution of oaths for documentation, for operation of certain vessels exempt from documentation, and for qualification of certain corporations as citizens of the United States.
3.21a Execution of oaths by a parent or subsidiary corporation.
3.22 Issue and record of marine documents.
3.23 Permanent documentation of vessel absent from home port.
3.24 Change of master.
3.25 Renewal of license.
3.26 Surrender of permanent documents.
3.27 Surrender of temporary documents.
3.28 Rebuilt and new vessels.
3.29 Change of build or rig.
3.30 Exchange of documents.
3.31 Loss of marine document.
3.32 Sale or transfer of vessel; change in membership of owning partnership.
3.33 Recording of bills of sale and mortgages.
3.34 Issue of temporary document upon sale.
3.35 Sale abroad.
3.36 Sale or charter to an alien.
3.37 Preferred mortgages.
3.38 Record and endorsement of preferred mortgages and related instruments.
3.39 Certificate of ownership.
3.40 Frontier enrollment and license.
3.41 Transfer from frontier enrollment and license.
3.42 Registry of foreign-built vessels.
3.43 Documentation of American-built foreign-flag vessels.
3.44 Foreign-built yachts.
3.45 Certificate of protection.
3.46 Recorded vessels.
3.47 Record of American-built vessels owned by aliens.
3.48 Certificates of record.
3.49 Prizes and forfeited vessels.
3.50 Inspection of marine documents.
3.51 Change of name of documented vessel.
3.52 Fee for change of vessel's name.
3.53 Yacht privileges and obligations.
3.54 Vessels to be inspected before documentation.
3.55 Citizenship of masters of documented vessels.
3.56 Revocation or denial of document.
3.57 Report of laid-up vessels.

DOCUMENTATION OF VESSELS UNDER THE ACT OF AUGUST 9, 1954

3.60 Vessels entitled to documents.
3.61 Provisional register.
3.62 Marine documents; classes; period of validity.
3.63 Marine documents; execution of.
3.64 Marine documents to include dimensions and tonnage.
3.65 Application for official number and signal letters.
3.66 Designation of home port.
3.67 Coastwise permit.
3.68 Marking of official number and net tonnage.
3.69 Home port; change of.
3.70 Master's oath for enrollment and license.
3.71 Change of master.
3.72 Issue, record, and surrender of documents.
3.73 Renewal of document.
3.74 Exchange of documents.

REGISTRATION OF PRIVATE CODE SIGNALS, HOUSE FLAGS, AND FUNNEL MARKS

3.80 Application for registration of rockets, lights, or other similar code signals, house flags, or funnel marks.
3.81 Registration of rockets, lights, or other similar signals, house flags, or funnel marks.
3.82 Fee for registering a house flag or funnel mark, or both.
Appendix

AUTHORITY: §§ 3.1 to 3.82 issued under R. S. 161, sec. 624, 46 Stat. 759, secs. 2, 3, 23 Stat. 118, as amended, 119, as amended sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 1624, 46 U.S.C. 2, 3, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

GENERAL

§ 3.1 General definitions.

For the purposes of this part and Part 4 of this chapter:

(a) The word "vessel" includes every description of watercraft or other con-

trivance used or capable of being used as a means of transportation on water, but does not include aircraft.

(b) The term "vessel of the United States" means any vessel documented under the laws of the United States.

(c) The term "documented" means registered, enrolled, and licensed, or licensed under the laws of the United States, whether permanently or temporarily.

(d) The term "marine document" includes registry, enrollment and license, and license.

(e) The term "port of documentation" means the home port of a vessel. It does not include a port in which a temporary document is issued.

(f) The term "mortgagee," in the case of a mortgage involving a trust deed and a bond issue thereunder, means the trustee designated in such deed.

(g) The term "noncontiguous territory of the United States" includes all the island Territories and possessions of the United States, but does not include the Canal Zone.

(h) The term "parent corporation" means a corporation incorporated under the laws of the United States, or any State, Territory, District, or possession thereof, which controls, directly or indirectly, at least 50 percent of the voting stock of a corporation which is a citizen of the United States as defined in § 3.19(a)(4) and for which there is on file with the proper collector of customs a valid and current certificate under oath as required by § 3.21a.

(i) The term "subsidiary corporation" means a corporation incorporated under the laws of the United States, or any State, Territory, District, or possession thereof, not less than 50 percent of the voting stock of which is controlled, directly or indirectly, by a corporation which is a citizen of the United States as defined in § 3.19(a)(4) or by a parent corporation of any such corporation and for which there is on file with the proper collector of customs a valid and current certificate under oath as required by § 3.21a.

(Sec. 27A, 72 Stat. 1736; 46 U.S.C. 883–1)

§ 3.2 Vessels entitled to documents.

(a) A vessel of 20 net tons or more may be registered or enrolled and licensed. A vessel of 5 net tons or more but less than 20 net tons may be licensed (except vessels subject to the provisions of paragraph (b) of this section) or registered.

(b) Any vessel of 5 net tons or more which is to be documented for navigating the waters of the northern, northeastern, or northwestern frontiers otherwise than by sea shall be granted a frontier enrollment and license, customs Form 1273, except that a vessel used exclusively as a pleasure vessel on those waters may be granted an enrollment and license as a yacht, customs Form 1290, if entitled to be so documented in accordance with the provisions of § 3.4. (See § 3.40.)

(c) The following classes of vessels are entitled to receive documents under existing laws:

Class 1. Any vessel built in the United States and wholly owned by a citizen.[2] A vessel of this class owned by a corporation which is qualified as a citizen of the United States under the definition contained in § 3.19(a)(4) may be documented for use in the coastwise trade within the limitations specified in the Act of September 2, 1958 (46 U.S.C. 883–1), if it is a non-self-propelled vessel or a self-propelled vessel of less than 500 gross tons (see also § 3.19(e)).

Class 2. Any vessel purchased from the Maritime Administration or War Shipping Administration by a citizen. (See § 3.42.)

Class 3. Any vessel built in the United States in whole or in part for the account of one who is not a citizen and then recorded, which thereafter becomes wholly owned by a citizen and has never before been documented. (See § 3.47.)

Class 4. Any vessel captured by a citizen in a war to which the United States is a party, which has been lawfully condemned as a prize and is wholly owned by a citizen.

Class 5. Any vessel which has been judicially forfeited for a breach of the laws of the United States when wholly owned by a citizen. This includes a foreign-built vessel, but does not include any vessel not otherwise entitled to documents which has been sold under a decree of admiralty for debt or seamen's wages.

Class 6. Any vessel built in the United States and sold by the Government to a citizen. A foreign-built vessel bought or chartered by the Government is entitled to documentation if sold to a citizen and the requirements for class 9 are met.

Class 7. Any vessel authorized by special act of Congress to be documented.

Class 8. Any vessel wrecked on a coast of the United States or its possessions or in adjacent waters when purchased by a citizen and repaired in a shipyard in the United States or its possessions, provided it be proved to the satisfaction of the Commissioner of Customs, through a board of three appraisers appointed by him if necessary, that the repairs put upon such vessel are equal to three times the appraised salved value of the vessel. The expense of such appraisal shall be borne by the owner of the vessel. If any of the material facts sworn to or represented by the owner, or at his instance, to obtain a document for such vessel is not true, the vessel is liable to forfeiture.

Class 9. Any seagoing vessel, whether steam or sail, wherever built, wholly owned by a citizen. A foreign-built vessel of this class shall engage only in trade with foreign countries or the islands of Guam, Tutuila, Wake, Midway, or Kingman Reef. It shall not engage in the coastwise trade, except as specified in sections 18 and 22, Merchant Marine Act, 1920, as amended, nor in the American fisheries. (See § 3.42.)

(d) The appropriate one of the following notations shall be made on the register of any vessel owned by a corporation which is established as a citizen of the United States under the definition contained in § 3.19(a)(3) or § 3.19(b), except when such register is required by any other provision of this part to bear an endorsement prohibiting the vessel from engaging in the coastwise trade:

(1) "Less than 75 percent of the interest in the corporation owning this vessel is owned by citizens of the United States. It shall not engage in the coastwise trade"; or

(2) "75 percent of the interest in the corporation owning this vessel is owned by citizens of the United States. It may engage in the coastwise trade so long as so owned and no longer."

(e) The following notation shall be made on the enrollment and license or license of any non-self-propelled vessel or any self-propelled vessel of less than 500 gross tons owned by a corporation which is established as a citizen of the United States under the definition contained in § 3.19(a)(4):

As amended by the Act of September 2, 1958 (46 U.S.C. 883–1). This vessel may engage in the coastwise trade, within the limitations specified in the Act, so long as so owned and no longer. It shall not engage in the fisheries and is not authorized to be documented for nor to engage in the foreign trade.

(f) No vessel of classes 1 through 8 above which has acquired the lawful right to engage in the coastwise trade, by virtue of having been built in or documented under the laws of the United States, shall have the right to engage in such trade if it thereafter has been sold or transferred foreign in whole or in part or placed under foreign registry (§ 3.43), or, if of more than 500 gross tons, has been rebuilt unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, was effected within the United States, its Territories (not including trust territories), or its possessions. However, no rebuilt vessel shall be deemed to have lost its coastwise privileges within the meaning of the above merely because it may have been rebuilt within the United States, its Territories (not including trust territories), or its possessions under a contract executed before July 5, 1960, if the work of rebuilding is commenced not later than 24 months after such date (§ 3.28).[3] When a vessel has lost its

[2] For the meaning of the word "citizen" in this section, see § 3.19.

[3] * * * [Sec. 1] * * * the second proviso of section 27 of the Merchant Marine Act, 1920, as amended (U.S.C., 1958 edition, title 46, sec. 883), is amended to read as follows: *"Provided further,* That no vessel of more than five hundred gross tons which has acquired the lawful right to engage in the coastwise trade, by virtue of having been built in or documented under the laws of the United States, and which has later been rebuilt, shall have the right thereafter to engage in the coastwise trade, unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, is effected within the United States, its Territories (not including trust territories), or its possessions:" * * *

Sec. 4. This Act shall be effective from the time of enactment hereof: *Provided, however,* That no vessel shall be deemed to have lost its coastwise privileges as a result of the amendments made by this Act if it is rebuilt within the United States, its Ter-

coastwise privileges, no document shall be issued for the coastwise trade and any document which may be issued to such vessel for any other trade or employment shall bear the following notation: "As amended by section 27 of the Merchant Marine Act of June 5, 1920, as amended. This vessel shall not engage in the coastwise trade."

(R.S. 4132, as amended, sec. 22, 41 Stat. 997, R.S. 4136, as amended, 4214, as amended, secs. 2, 9, 39 Stat. 729, as amended, 730, as amended, sec. 27, 41 Stat. 999, as amended, secs. 2, 3, 70 Stat. 544, 72 Stat. 1736, secs. 2, 3, 4, 74 Stat. 321; 46 U.S.C. 11, 13, 14, 103, 802, 808, 883, 883a, 883b, 883–1)

§ 3.3 Provisional registers.

(a) Consular officers of the United States and such other persons as may be designated by the President for the purpose[4] are authorized to issue a provisional certificate of registry to any vessel abroad which has been purchased by a citizen, as defined in § 3.19, and which at the time of such purchase is not documented as a vessel of the United States.

(b) Such provisional certificate shall entitle the vessel to the privileges of a vessel of the United States in trade with foreign countries or with the islands of Guam and Tutuila until the expiration of 6 months from the date thereof, or until 10 days after the vessel's arrival in a port of the United States, whichever first happens, and no longer. On arrival at a port of the United States, the vessel shall become subject to the laws relating to officers, inspection, and measurement.

(c) When a bill of sale covering such transfer is presented to an American consular officer:

(1) Satisfactory evidence shall be produced to establish that the transfer of registry has the approval of the foreign government concerned.

(2) The bill of sale shall be filed with him.

(3) The vendee shall submit a certificate as to the bona fides of the transfer of title and the citizenship of the vendee which the consul shall file with the bill of sale.

(4) If the vendor or his duly authorized representative be present, he shall also sign the certificate.

(5) The consular officer will investigate the circumstances surrounding the sale of the vessel and then communicate by dispatch, or by cable at the expense of the applicant, with the Commissioner of Customs through the Department of State, setting forth the results of his investigation; pertinent data regarding the vessel, such as its name, former nationality, rig, and gross and net tonnages; that the bill of sale and certificate of bona fides have been filed with him, giving the names of the vendor and vendee; whether the proposal to have the vessel placed under American registry has the approval of the foreign government concerned, or, if such approval is not required, stating that fact; his opinion as to whether the transfer was made in good faith; and whether it is intended that the vessel will be navigated to the United States on a voyage expected to terminate before the expiration date of the provisional register to be issued.

(6) On receipt of such a communication, if the transfer appears to be in good faith and the documentation of the vessel is not contrary to the policy of this Government, the Commissioner of Customs will award signal letters to the vessel and, through the usual channels, will promptly authorize the State Department to instruct the consular officer to issue a provisional certificate, customs Form 1266–A, to the vessel. The State Department will then cable, at the expense of the parties concerned, instructions and data for the issue of the provisional register.

(d) When bills of sale covering such transfers are presented to persons designated by the President for the purpose of issuing provisional certificates of registry, the procedure outlined in paragraph (c) of this section shall be followed. Communications in such cases shall be made through the appropriate departments.

(e) If bills of sale covering such transfers are presented to a collector of customs, the procedure outlined in paragraph (c) (1), (2), (3), (4), and (5) of this section shall be followed, except that the collector shall communicate directly with the Commissioner of Customs. Thereafter, if the transfer appears to be in good faith and it is not contrary to the policy of this Government, the Commissioner of Customs will award signal letters to the vessel and, through the usual channels, will promptly request the State Department to authorize the appropriate consular officer to issue a provisional certificate to the vessel. The State Department will then cable, at the expense of the parties concerned, instructions and data for the issue of the provisional register. No provisional certificate of registry shall be issued in any case unless authorized by the Commissioner of Customs.

(f) A duplicate provisional certificate, customs Form 1266–A, shall be forwarded as soon as practicable in every case by the issuing officer through the usual channels to the Commissioner of Customs.

(g) No provisional certificate shall be issued to any vessel abroad which at the time of its transfer to a citizen of the United States was documented as a vessel of the United States. Such a vessel may be redocumented at a port in the United States upon compliance with the requirements outlined in § 3.35 or if not so redocumented while abroad, it shall nevertheless be entitled to all the privileges and benefits of a vessel of the United States up to and for the purpose of its first arrival thereafter within a customs collection district or in a port of documentation outside any such customs collection district.

(Sec. 1, 38 Stat. 1193, as amended, R.S. 4166, as amended; 46 U.S.C. 12, 35)

§ 3.4 Yachts entitled to documents.

(a) Any vessel, other than one navigating the waters of the northern, northeastern, or northwestern frontiers otherwise than by sea, may be licensed as a yacht if under 20 but not under 5 net tons and used exclusively as a pleasure vessel, and if otherwise entitled to be documented.

(b) Any vessel may be enrolled and licensed as a yacht if used exclusively as a pleasure vessel and otherwise entitled to be documented, provided it is of 5 net tons or over in the case of a vessel navigating the waters of the northern, northeastern, or northwestern frontiers otherwise than by sea, or 20 net tons or over in any other case.

(R. S. 4214, as amended; 46 U. S. C. 103)

§ 3.5 Vessels exempt from documentation.

(a) The following classes of vessels are exempt from documentation:

(1) Boats or lighters not masted, or masted but not decked, used in the harbor of any town or city, and not carrying passengers.

(2) Canal boats, barges, or other boats used in whole or in part on canals or on the internal waters of a State, without sail or internal motive power of their own, not engaged in trade with contiguous foreign territory, and not carrying passengers.

(3) Barges or boats without sail or internal motive power of their own plying in whole or in part on inland rivers or lakes of the United States, not engaged in trade with contiguous foreign territory, and not carrying passengers.

(4) Vessels plying upon waters which are wholly within the limits of a State and which have no outlet into a river or lake on which commerce with foreign nations or among the States can be carried on.

(5) Vessels of less than 5 net tons.

(b) All other vessels engaged in trade between ports in the United States or engaged in the fisheries, if not registered, shall be enrolled and licensed, or licensed, or will be liable to a penalty of $30 on every arrival, unless the vessel has not been within a customs district since the expiration of the license.

(c) No vessel exempt from documentation under the provisions of paragraph (a) (1), (2), (3), or (5) of this section and owned by a corporation which is a citizen of the United States as defined in § 3.19(a)(4) shall be operated in trade on the navigable waters of the United States unless there is on file with the collector of customs for the district in which the vessel business of the owner is conducted a valid and current certificate under oath on customs Form 1260 as required by § 3.21(f).

(Sec. 7, 24 Stat. 81, as amended, 21 Stat. 44, R.S. 4385, 18 Stat. 31, 72 Stat. 1736; 46 U.S.C. 319, 332, 335, 336, 883–1)

---

ritories (not including trust territories), or its possessions under a contract executed before such date of enactment and if the work of rebuilding is commenced not later than twenty-four months after such date of enactment. (Secs. 1 and 4, Act of July 5, 1960 (74 Stat. 321))

[4] The captains of the ports of Cristobal and Balboa, Canal Zone, were designated by Executive Order No. 10351, dated May 15, 1952 (17 F. R. 4517).

§ 3.6 Marine documents; kinds of.

(a) Marine documents are of two descriptions, (1) permanent, granted to vessels at their home ports[6] and (2) temporary, granted to vessels at ports other than their home ports.[6a]

(b) A register or enrollment shall be valid until a contingency arises requiring its surrender. (See §§ 3.26, 3.27.) A license shall be valid for one year only, but may be renewed or changed at any time during the year for which it is granted. Care shall be taken that only one license, and for one employment, be granted to a vessel for the same period, except that a license may be granted for the "coasting trade and mackerel fisheries."

(c) No enrollment and license or license shall be considered in force longer than the vessel to which it is granted is owned as stated in the document, nor shall it be valid if the description of the vessel is changed, nor if the vessel engages in any business or employment other than that for which the document was granted.

(R.S. 4138, 4191, 4315, as amended, 4324, 4327; 46 U.S.C. 16, 62, 255, 266, 269)

§ 3.7 Marine documents; execution of.

All marine documents shall be signed and sealed by the collector before being issued.

(R. S. 4157, as amended, 4158, as amended; 46 U.S.C. 27, 28)

§ 3.8 Marine documents; new.

When a new marine document is issued[7] in lieu of one surrendered, such new document shall in every case cite the previous document by number, date, and port of issue, carry any notation of the authority for redocumentation or of the existence of unsatisfied preferred mortgage appearing on the surrendered document, and give the cause of surrender of the old document. A certificate of the builder shall not be required, nor shall a certificate of admeasurement be required unless some change of tonnage has taken place since the time of the previous documentation. (See §§ 3.26, 3.27 and 3.30.)

§ 3.9 Marine documents to include dimensions and tonnage.

The marine document of every vessel shall express her length, breadth, and depth; the number of decks and masts; the tonnage under the tonnage deck; the tonnage of the poop or other enclosed space above the deck; the gross tonnage; each deduction made from the gross tonnage; and the net or register tonnage. In appropriate cases it shall also show the height under the third or spar deck and the tonnage on the between decks above the tonnage deck.

(R.S. 4150, 4153, as amended; 46 U.S.C. 74, 77)

§ 3.10 Registers.

Vessels of the United States engaged in the foreign trade shall be registered, except as provided for in § 3.40 with respect to vessels on the northern, northeastern, and northwestern frontiers. Vessels engaged in domestic trade only, other than vessels owned by citizens of the United States as defined in § 3.19 (a) (4) and documented or to be documented under the Act of September 2, 1958 (46 U.S.C. 883–1), may be registered. (See § 3.30.)

(R.S. 4132, as amended, sec. 22, 41, Stat. 997, sec. 27A, 72 Stat. 1736; 46 U.S.C. 11, 13, 883–1)

§ 3.11 Enrollment and license; coasting trade and fisheries.

(a) When employed in the coasting trade and fisheries, a vessel of 20 net tons or over shall be enrolled and licensed and a vessel of 5 net tons or over but less than 20 net tons shall be licensed, unless such vessel is registered. (See § 3.10.)

(b) A vessel engaged exclusively in the cod fishery shall be licensed for that fishery. A vessel engaged in whaling shall be licensed for the whale fishery. A vessel engaged in taking fish of any other description shall be licensed for the mackerel fishery. A vessel licensed for the fisheries shall not be deemed to be used in employment for which not licensed solely because it occasionally takes on board on the high seas and transports without a monetary consideration to a port of the United States the catch of another fishing vessel of the United States. A vessel which engages in both the coasting trade and fishing (other than whaling) may be licensed for the "coasting trade and mackerel fishery." A vessel engaged in taking out fishing parties is not a fishing vessel and shall be licensed for the coasting trade unless it intends to proceed to a foreign port, in which case a certificate of registry is required. (See § 3.10. See § 3.40 for vessels on the Great Lakes.)

(c) The trade expressed in the body of a document is controlling and may not be limited or expanded by the statement of service in the space provided therefor.

(d) An enrolled and licensed vessel may engage in trade with the Canal Zone or Guantanamo Bay Naval Station.

(R.S. 4311, as amended, 4321, as amended, sec. 7, 24 Stat. 81, as amended, 75 Stat. 410; 46 U.S.C. 251, 263, 319, 404)

§ 3.12 Builder's certificates.

(a) In order to document a vessel of class 1, 2, 6, or 7, built in the United States and not before documented, the owner shall produce to the collector a certificate on customs Form 1261 from the builder under whose direction the vessel was built that she was so built, stating the place and time of building, the person or persons for whom built, number of decks and masts, length, breadth, depth, tonnage, and such other particulars as are usually descriptive of a vessel. This certificate shall be sufficient to authorize the removal of a new vessel, if in ballast only, from the district where she was built to another district in the same or an adjoining State where the owner or owners actually reside.

(b) When for any cause it is found impracticable to obtain the certificate of the builder, other competent evidence establishing the particulars and facts required to be certified by him may be accepted with the approval of the Commissioner of Customs.

(c) The place of build is where the hull was built. The time of build is the year of completion. Both shall appear in all marine documents.

(R.S. 4147; 46 U.S.C. 24)

§ 3.13 Official number and signal letters.

(a) Every documented vessel shall have an official number[8] awarded by the Commissioner of Customs. Application therefor shall be made on customs Form 1320 by the owner or his agent through the collector of customs. When the application is filed with the collector at the port designated as the home port of the vessel, the application shall be in triplicate. When the application is filed with the collector at any port other than the home port of the vessel, the application shall be in quadruplicate. The name or names of any former owner or owners shall be stated on the application. If there was no former owner, that fact shall be stated. In the case of corporate ownership, the application shall be signed in the corporate name by the president, secretary, or a specially authorized officer of the corporation, or by an authorized agent. In the case of a partnership, the partnership name shall be signed by one of the partners, or by a duly authorized agent; the name of each of the partners shall be stated but the proportionate interest of each in the partnership business shall not be stated. In the case of individual ownership by two or more persons, the application shall be signed by all the owners, by a duly authorized agent, or by one of the owners as managing owner, provided there is filed with the collector a written authorization for him to act in that capacity signed by the owners of a majority interest in the vessel; in every case, the name of each owner shall be stated. In every case the capacity in which the person signs, whether as owner, managing owner, agent, etc., shall be clearly stated below his signature. If a signature is by mark, it shall be witnessed by two persons, or acknowledged. Any acknowledgment valid under the law of the state where made may be accepted.

---

[6] Under the "Seattle plan," which is in force in a number of customs districts, a vessel having its home port within the customs collection district may secure a permanent document at any other port in the same district at which marine documents are issued.

[6a] The ports at which marine documents may be issued are indicated in § 1.1 of this chapter.

[7] The penalty for neglecting to surrender a document when required by law is the forfeiture of all privileges and benefits of a vessel of the United States. (R. S. 4169; 46 U. S. C. 38)

[8] "The Secretary of the Treasury shall have power, under such regulations as he shall prescribe, to establish and provide a system of numbering vessels so registered, enrolled and licensed; and each vessel so numbered shall have her number deeply carved or otherwise permanently marked on her main beam; and if at any time she shall cease to be so marked, such vessel shall be liable to a fine of $30 on every arrival in a port of the United States if she have not her proper official number legally carved or permanently marked." (46 U. S. C. 45)

sel of the United States. (R. S. 4169; 46 U. S. C. 38)

not licensed solely because it occa- (R.S. 4147; 46 U.S.C. 24)

No customs officer or employee is authorized by section 486, Tariff Act of 1930, to take such acknowledgments.

(b) Each application for an official number shall be accompanied by a designation of home port on customs Form 1319.

(c) When an application for an official number is filed with the collector at the port designated as the home port of the vessel, the original and one copy of customs Form 1320 shall be forwarded to the Bureau. When an application for an official number is filed with the collector at any port other than the home port of the vessel the original and two copies of the application shall be forwarded to the Bureau. When an official number is awarded, the Bureau will return the original to the collector from whom it was received. The collector shall make a notation of the official number awarded on the retained copy of the application and shall deliver the original to the applicant. When the application for official number is filed with the collector at any port other than the home port of the vessel, and an official number is awarded to the vessel, a copy of the notice of award will also be forwarded by the Bureau to the collector at the home port together with a copy of the application.

(d) Any seagoing vessel of 100 tons or over, in addition to an official number, may have signal letters awarded. Application therefor shall be made by the owner or his agent through a collector of customs on the application for official number, customs Form 1320, or, if the application is made subsequent to the filing of an application for an official number, by a letter transmitted through the collector of customs. Signal letters will not be forwarded to a seagoing vessel of less than 100 tons except upon special authorization by the Commissioner of Customs.

(e) A new application for the award of signal letters to a vessel of the United States shall not be required by reason of any change in status or ownership of such vessel or by reason of the redocumentation of such vessel after a period during which it has been out of documentation. The award of such letters shall not be canceled except upon special authorization of the Commissioner of Customs.

(f) The Bureau will give consideration to granting a special authorization for the cancellation of the award of signal letters upon application by or on behalf of a person having a permit issued by the Federal Communications Commission for the construction or operation of a broadcast station or the operation of a ship station who desires to use such letters in connection with the operation of such station if the vessel to which such letters are awarded is no longer documented as a vessel of the United States, and if, in the case of an application relating to a ship station, the vessel has not been so documented for a period of not less than 10 years. Such application shall be submitted to the Commissioner of Customs in writing and shall state (1) the name and address of the permittee, (2) the date of the granting of such permit, (3) the type of station to which such permit has been granted, (4) the letters desired, and (5) the name and official number of the vessel to which such letters are awarded, if known to the applicant.

(R.S. 4177, as amended; 46 U.S.C. 45)

§ 3.14 Evidence as to marking of official number, net tonnage, name, and hailing port.

(a) Except as provided for in § 3.51(k), marine documents shall not be issued until proper evidence is produced that the official number and net tonnage have been properly marked upon the vessel's main beam, that her name has been properly marked upon both sides of her bow, and that her name and hailing port have been properly marked upon her stern, or in the case of a yacht that her name and hailing port have been properly marked on the hull. (See § 2.60a of this chapter.)

(b) The evidence of proper marking required by the preceding paragraph shall be a certificate by a customs officer on customs Form 1322. If the vessel is at a place not readily accessible to a customs officer, the owner or his agent shall certify as to the proper marking; but as soon as she arrives at a place accessible to a customs officer, a certificate on customs Form 1322 shall be required.

(Sec. 4, 28 Stat. 743, as amended; 46 U.S.C. 79)

§ 3.16 Name and hailing port on documented vessel.

(a) The name of every documented vessel (yachts excepted) shall be marked in full upon each bow and upon the stern, and the hailing port shall also be marked in full upon the stern. These names shall be painted, carved, or gilded in Roman letters in a light color on a dark ground or in a dark color on a light ground, and shall be distinctly visible. The letters shall not be less than 4 inches high. Every steam vessel of the United States shall, in addition, have her name conspicuously placed in distinct, plain letters not less than 6 inches high on each outer side of the pilot house, if it has one, and if the vessel has side wheels, also on the outer side of each wheel house.

(b) On a so-called "double-ender" vessel the required names shall be placed on the parts corresponding to the bow and stern. If either the bow or stern, or both, of any such or other vessel does not afford sufficient space for marking the required name or names, or if the name marked in such a place would be obscured or concealed while the vessel is in operation (for example, by a fender), the names shall be placed on an appropriate adjacent part.

(c) The name of a scow, barge, or other vessel "scow-built" or with square bow may be marked on the bow instead of the side when such marking would be speedily obliterated by chafing against other vessels, piles, or rocks.

(d) The hailing port to be marked on the stern may be either the port where the vessel is permanently documented, or the place in the same district where the vessel was built or where one or more of the owners reside.

(e) Every documented yacht shall have its name and hailing port placed on some conspicuous part of its hull.

(R. S. 4178, as amended, sec. 21, 23 Stat. 58, R. S. 4214, as amended, 4495; 46 U. S. C. 46, 47, 103, 493)

§ 3.17 Home port; definition; change of.

(a) A vessel's home port[9] is that port where marine documents may be issued to vessels (see § 1.1 (c) of this chapter) which has been fixed and determined by the owner with the approval of the collector, assistant collector, or deputy collector in charge of marine work at the port designated or at the port where a temporary document is to be issued to the vessel. It is the port at which the vessel's permanent documents are issued.

(b) Before a marine document is issued to a vessel never before documented or to a documented or previously documented vessel when there has been some change in ownership in whole or in part or when a change in home port is desired, the owner of the vessel shall submit his designation of home port for the vessel on customs Form 1319, signed as provided for in § 3.13 (a), to the office of the collector of customs for the port designated or the port where a temporary document is to be issued. When the designation is filed with the collector at the port designated as home port, it shall be filed in duplicate; when filed at a port where a temporary document is to be issued, it shall be filed in triplicate. If the home port so designated is different from the last previous home port of the vessel, the owner shall also request the collector at the previous home port to forward to the collector at the designated port an abstract of title on customs Form 1332, or on customs Forms 1332 and 1332–A (see § 3.33 (l)).

(c) If an owner desires that the home port be elsewhere than the port at or nearest the place in the same customs collection district where the vessel business of the owner is conducted, he shall submit with his designation of home port a detailed statement setting forth the reasons.

(d) Whenever an owner submits a designation of home port to a collector, the collector shall examine the instruments transferring title to the vessel and the abstract of title on customs Form 1332 or customs Forms 1332 and 1332–A, if any, and satisify himself that the home port has in fact been designated by the

[9] "For the purposes of the navigation laws of the United States * * *, every vessel of the United States shall have a 'home port' in the United States, including Puerto Rico, which port the owner of such vessel, subject to the approval of the Secretary of the Treasury, shall specifically fix and determine, and subject to such approval may from time to time change. Such home port shall be shown in the register, enrollment, and license, or license of such vessel, which documents, respectively, are referred to as the vessel's document. The home port shown in the document of any vessel of the United States in force on February 16, 1925, shall be deemed to have been fixed and determined in accordance with the provisions hereof. * * *" (46 U. S. C. 18)

owner of the vessel or some person authorized to act for him.

(e) Any designation presented shall be forwarded to the Bureau for recommendation before approval and before the issuance of any document under such designation if:

(1) A port or place is designated which is other than the port at or nearest the place in the same customs collection district where the vessel business of the owner is conducted;

(2) The vessel is of foreign build and has not been previously documented as a vessel of the United States;

(3) The vessel has been transferred to an alien in whole or in part or has been placed under foreign registry after having been built in the United States or after having been documented as a vessel of the United States;

(4) Title has passed by operation of law before the first documentation as a vessel of the United States or since the date of acquisition of title by the last owner of record, whether by court order, by appointment of a trustee in bankruptcy, or otherwise.

(5) The vessel is owned by a corporation which is qualified as a citizen of the United States only under the definition contained in § 3.19(a)(4).

(f) After favorable recommendation by the Bureau if required, the collector, assistant collector, or deputy collector in charge of marine work for the port at which a designation is filed in accordance with paragraph (a) of this section may approve that designation provided recordable instruments covering each sale, gift, or conveyance (including a conveyance in trust), if any, since the date of acquisition of title by the last owner of record are presented with the designation. After favorable recommendation by the Bureau if required, the collector or assistant collector for the district in which any such designation is filed may waive the requirements for production of recordable instruments of conveyances and may approve that designation if he is satisfied that it is impracticable to furnish any such instrument and that the owner has legal title to the vessel.

(g) If the designation of home port is approved as provided for in paragraph (f) of this section, the collector shall forward a duplicate copy of the designation to the Bureau. If the designation is so approved at a port other than the home port, the collector shall also forward the triplicate copy of the designation to the collector at the home port.

(h) In every case in which a favorable recommendation by the Bureau is required before an approval may be granted under paragraph (f) of this section, the collector shall forward a copy of the designation to the Bureau, together with any evidence of title submitted, any necessary statement of the facts and circumstances, and a statement as to whether or not the collector is of the opinion that the applicant has legal title to the vessel. In addition, any statement required by paragraph (c) of this section shall be forwarded. The papers so forwarded will be returned by the Bureau, with its recommendation, for processing by the field officer concerned.

(i) No officer or employee designated to grant approvals of designations of home ports shall approve, nor shall any collector forward to the Bureau for review, any such designation unless it appears that the vessel will be documented as a vessel of the United States substantially simultaneously with the approval of the designation by any such officer or employee after any necessary review. When a designation has been approved and the vessel is not so documented, the approval granted shall be cancelled. The collector, in subsequently transmitting a copy of a new designation by the same owner for review or in forwarding a copy of a designation approved by him, shall indicate in his remarks the date of the previous approval and that it was cancelled because of failure to document the vessel.

(R. S. 4141, sec. 1, 43 Stat. 947, as amended; 46 U. S. C. 17, 18)

§ 3.18 Forms of oath of owner and master for documentation.

(a) Prior to the documentation or redocumentation of any vessel, except in case of redocumentation of a vessel at a port other than the home port upon change in trade or loss of marine document or when the renewal spaces are filled, there shall be filed an oath of ownership on customs Form 1258 if the vessel is owned by an individual, partnership, unincorporated company, association, or the United States; or on customs Form 1259 or 1260, whichever is applicable, if the vessel is owned by a corporation.

(b) If any such vessel falls within class 4, 5, 6, or 7 of § 3.2, there shall be inserted immediately after footnote 1 of customs Form 1258 or immediately after footnote 4 of customs Form 1259 the appropriate one of the following clauses:

(1) For class 4—

On the _____ day of _____, 19__, captured in war by a citizen (or citizens) of the United States and lawfully condemned as prize by a decree, sentence, or judgment of the _____ court of _____ an authenticated copy of which I now produce.

(2) For class 5—

Adjudged to be forfeited, for a breach of the laws of the United States, by a decree, sentence, or judgment of the _____ court of _____, an authenticated copy of which I now produce.

(3) For class 6—

Formerly the _____, purchased from the United States (or from an officer, naming him and his office).

(4) For class 7—

Authorized to be documented by act of Congress and by the Commissioner of Customs by letter under date of _____, an authenticated copy of which I now produce.

(c) The master's oath required for the license or enrollment and license of a vessel shall be executed in the space provided therefor on customs Form 1258, 1259, or 1260. If the vessel is to be registered and the master is within the district where the registry is to be made, the master's oath shall be on Form 1258 or 1259. Such form of oath shall not be used for a renewal of license under paragraph (d) of this section.

(d) The master's oath for the renewal of a license shall be executed on customs Form 1280. Except when the vessel is at its home port, such an oath shall be taken for the renewal of the license even though it may be necessary to issue a new document because all renewal spaces are filled on the former document.

(R.S. 3114, as amended, 3115, as amended, 4142, 4139, as amended, 4159, 4161, 4214, as amended, 4312, 4314, as amended, 4320, as amended, 4325, as amended, 4328, as amended, 4330, 72 Stat. 1736; 19 U.S.C. 257, 258, 46 U.S.C. 19, 20, 29, 31, 103, 252, 254, 262, 267, 270, 272, 883–1)

§ 3.19 Citizenship; documentation.

(a) Whenever used in this part, the word "citizen" includes the plural as well as the singular. Unless the context requires a different meaning, it means:

(1) In the case of an individual, a native-born, derivative, or naturalized citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one whose members are all citizens of the United States;

(3) In the case of a corporation, one which is incorporated under the laws of the United States, or of any State thereof, of which the president or other chief executive officer and the chairman of the board of directors are citizens of the United States, so long as no more of its directors than a minority of the number necessary to constitute a quorum shall be noncitizens.

(4) In the case of a corporation owning and operating a non-self-propelled vessel, or a self-propelled vessel of less than 500 gross tons, or in the case of a corporation which seeks to qualify as a citizen under the Act of September 2, 1958 (46 U.S.C. 883–1), for any purpose under the Act, one which is incorporated under the laws of the United States, or any State, Territory, District, or possession thereof provided that (i) a majority of the officers and directors of such corporation are citizens of the United States; (ii) not less than 90 percent of the employees of such corporation are residents of the United States; (iii) such corporation is engaged primarily in a manufacturing or mineral industry in the United States or any Territory, District, or possession thereof; (iv) the aggregate book value of the vessels owned by such corporation does not exceed 10 percent of the aggregate book value of the assets of such corporation; and (v) such corporation purchases or produces in the United States, its Territories, or possessions not less than 75 percent of the raw materials used or sold in its operations, and provided further that a certificate under oath on customs Form 1260 as prescribed in § 3.21 is filed with the collector of customs concerned as provided therein, if any, or if none, with the Commissioner of Customs, together with the required certificate as to the organization of the corporation and the names of all officers and directors of the

corporation, showing the home address and citizenship of each."[9]

(b) A vessel, although owned and documented by a corporation which is a citizen as defined in paragraph (a) (3) of this section, shall not engage in the coastwise trade unless 75 percent of the interest in the corporation is owned by citizens as specified in section 2 of the Shipping Act, 1916, as amended.[10]

(c) A vessel, although owned by a corporation which is not a citizen as defined in section 2 of Shipping Act, 1916, as amended, may be documented as a vessel of the United States if the sale or transfer to the corporation was not in violation of section 9 or 37 of the Shipping Act, 1916, as amended (46 U. S. C. 808, 835), and if the corporation is a citizen as defined in paragraph (a) (3) of this section.

(d) A vessel, although owned by a partnership or association which is a citizen as defined in section 2 of the Shipping Act, 1916, as amended, shall not be documented as a vessel of the United States unless the owner is also a citizen as defined in paragraph (a) (2) of this section.

(e) A corporation which qualifies as a citizen as defined in paragraph (a) (4) of this section is not thereby precluded from qualifying as a citizen under any other applicable definition and vessels which it owns or operates shall be entitled to be documented as vessels of the United States under any other provision of this part upon compliance with all applicable requirements.

(R.S. 4132, as amended, 4131, as amended, secs. 2, 9, 39 Stat. 729, as amended, 730, as amended, sec. 4, 40 Stat. 901, as amended, 72 Stat. 1736; 46 U.S.C. 11, 221, 802, 808, 835, 883–1)

§ 3.20 Evidence of citizenship of owners and officers.

(a) In addition to any oath, certificate, or declaration of citizenship specified, the collector of customs may require the production of such further evidence as may be necessary to satisfy him that the person is a citizen of the United States. The proper notation of the evidence produced shall be made on the papers retained in the collector's office, such as the number, date, and office of issue of an officer's license, seaman's passport, or citizen's passport, or the same data as to a birth or naturalization certificate, a continuous discharge book, or a certificate of identification, etc. The col-

---

[9] * * * Notwithstanding any other provision of law, a corporation incorporated under the laws of the United States or any State, Territory, District, or possession thereof, shall be deemed to be a citizen of the United States for the purposes of and within the meaning of that term as used in sections 9 and 37 of the Shipping Act, 1916, as amended (46 U.S.C. 808, 835), section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. 883), Revised Statutes, section 4370 (46 U.S.C. 316), and the laws relating to the documentation of vessels, if it is established by a certificate filed with the Secretary of the Treasury as hereinafter provided, that—

(a) A majority of the officers and directors of such corporation are citizens of the United States;

(b) Not less than 90 per centum of the employees of such corporation are residents of the United States;

(c) Such corporation is engaged primarily in a manufacturing or mineral industry in the United States or any Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by such corporation does not exceed 10 per centum of the aggregate book value of the assets of such corporation; and

(e) Such corporation purchases or produces in the United States, its Territories, or possessions not less than 75 per centum of the raw materials used or sold in its operations

but no vessel owned by any such corporation shall engage in the fisheries or in the transportation of merchandise or passengers for hire between points in the United States, including Territories, Districts, and possessions thereof, embraced within the coastwise laws, except as a service for a parent or subsidiary corporation and except when such vessel is under demise or bareboat charter at prevailing rates for use otherwise than in the domestic noncontiguous trades from any such corporation to a common or contract carrier subject to part 3 of the Interstate Commerce Act, as amended, which otherwise qualifies as a citizen under section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802), and which is not connected, directly or indirectly, by way of ownership or control with such corporation.

As used herein (1), the term "parent" means a corporation which controls, directly or indirectly, at least 50 per centum of the voting stock of such corporation, and (2), the term "subsidiary" means a corporation not less than 50 per centum of the voting stock of which is controlled, directly or indirectly, by such corporation or its parent, but no corporation shall be deemed to be a "parent" or "subsidiary" hereunder unless it is incorporated under the laws of the United States, or any State, Territory, District, or possession thereof, and there has been filed with the Secretary of the Treasury a certificate as hereinafter provided.

Vessels built in the United States and owned by a corporation meeting the conditions hereof which are non-self-propelled or which, if self-propelled, are of less than five hundred gross tons shall be entitled to documentation under the laws of the United States, and except as restricted by this section, shall be entitled to engage in the coastwise trade and, together with their owners or masters, shall be entitled to all the other benefits and privileges and shall be subject to the same requirements, penalties, and forfeitures as may be applicable in the case of vessels built in the United States and otherwise documented or exempt from documentation under the laws of the United States.

A corporation seeking hereunder to document a vessel under the laws of the United States or to operate a vessel exempt from documentation under the laws of the United States shall file with the Secretary of the Treasury of the United States a certificate under oath, in such form and at such times as may be prescribed by him, executed by its duly authorized officer or agent, establishing that such corporation complies with the conditions of this section above set forth. A "parent" or "subsidiary" of such corporation shall likewise file with the Secretary of the Treasury a certificate under oath, in such form and at such time as may be prescribed by him, executed by its duly authorized officer or agent, establishing that such "parent" or "subsidiary" complies with the conditions of this section above set forth, before such corporation may transport any merchandise or passengers for such parent or subsidiary. If any material matter of fact alleged in any such certificate which, within the knowledge of the party so swearing is not true, there shall be a forfeiture of the vessel (or the value thereof) documented or operated hereunder in respect to which the oath shall have been made. If any vessel shall transport merchandise for hire in violation of this section, such merchandise shall be forfeited to the United States. If any vessel shall transport passengers for hire in violation of this section, such vessel shall be subject to a penalty of $200 for each passenger so transported. Any penalty or forfeiture incurred under this section may be remitted or mitigated by the Secretary of the Treasury under the provisions of section 7 of Title 46, United States Code.

Any corporation which has filed a certificate with the Secretary of the Treasury as provided for herein shall cease to be qualified under this section if there is any change in its status whereby it no longer meets the conditions above set forth, and any documents theretofore issued to it, pursuant to the provisions of this section, shall be forthwith surrendered by it to the Secretary of the Treasury. (46 U.S.C. 883–1)

[10] "(a) Within the meaning of this chapter no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and, in the case of a corporation, unless its president or other chief executive officer and the chairman of its board of directors are citizens of the United States and unless no more of its directors than a minority of the number necessary to constitute a quorum are noncitizens and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof, but in the case of a corporation, association, or partnership operating any vessel in the coastwise trade the amount of interest required to be owned by citizens of the United States shall be 75 per centum.

"(b) The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States or (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

"(c) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States; or (c) if, through any contract or understanding, it is so arranged that more than 25 per centum of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States." (46 U. S. C. 802)

lector shall reject any evidence believed by him to be unauthentic.

(b) As evidence of his citizenship, a naturalized citizen shall be required in every case to present a certificate of his naturalization. A derivative citizen shall be required to present either a certificate of naturalization of either parent through whom he derived his own citizenship, together with a birth certificate or other evidence satisfactorily establishing that he was under 21 years of age at the time of his parent's naturalization, or a certificate of derivative citizenship. The usually acceptable evidence of citizenship for other persons is described below in the order of desirability.

(1) A birth certificate or certified copy.

(2) A baptismal certificate or parish record made within 1 year after birth.

(3) A certificate of a practicing physician that he attended the birth and that he has a record in his possession showing the date on which it occurred.

(4) A State Department passport.

(5) An active commission in the United States Navy, Marine Corps, Coast Guard, or reserve component thereof.

(6) An active commission in the United States Army or a reserve component thereof issued prior to May 26, 1942.

(7) A license as master, mate, engineer, or pilot issued by the Coast Guard, or a license as master, mate, engineer, or pilot issued by the former Bureau of Marine Inspection and Navigation when such license shows on the back thereof that satisfactory evidence of citizenship of the holder was produced at the time of the issuance of such license.

(8) A certificate of registry as staff officer.

(9) A continuous discharge book or certificate of identification issued by the Coast Guard which shows that the holder is an American citizen, or a continuous discharge book or certificate of identification issued by the former Bureau of Marine Inspection and Navigation which shows the holder is an American citizen, provided the records of that Bureau (now maintained by the Coast Guard) indicate that the holder of such continuous discharge book or certificate of identification has produced satisfactory evidence of his citizenship.

(10) A delayed certificate of birth. If an applicant claiming to be a citizen of the United States submits a delayed certificate of birth which has been issued in accordance with the procedure outlined in the Manual of Uniform Procedure for the Delayed Registration of Births [12] and recites on its face the evidence upon which it has been granted, it may be accepted as prima facie evidence of citizenship in the absence of any collateral facts indicating fraud in its procurement. In order to receive consideration as a delayed certificate of birth, the certificate shall have been issued strictly in accordance with the provisions of the manual above referred to. Any delayed birth certificate not so issued shall be given consideration but shall not necessarily be considered prima facie evidence of citizenship.

(11) If none of the foregoing requirements can be met by the applicant, he shall make a statement to that effect, and, in an attempt to establish citizenship, he may submit for consideration data of the following character:

(i) Report of the Census Bureau showing the earliest record of age or birth available.[13] Request for such information shall be addressed to the Director of the Census, Washington 25, D. C. In making such request, definite information must be furnished the Census Bureau as to the place of residence when the first census was taken after birth of the applicant, giving the name of the street and number of the house, or the names of the cross streets between which the house was located if residing in a city; or the name of the town, township, precinct, magisterial district, militia district, beat or election district, if residing in the country; also the names of parents, or the names of other persons with whom residing on the date specified.

(ii) Declarations of fact by parents or relatives; declarations by two or more responsible citizens of the United States stating facts of which they have knowledge tending to establish the applicant's citizenship; school records; immigration records; or insurance policies.

(R.S. 4142, 4144, 4313; 46 U.S.C. 19, 22, 253)

[12] This manual was issued by the Department of Commerce on July 16, 1941, and is filed with the Office of the Federal Register.

[13] Census records are available for the following years: 1860, 1870, 1880, 1900, 1910, 1920, 1930, and 1940. Records for 1890 are not available.

§ 3.21 Execution of oaths for documentation, for operation of certain vessels exempt from documentation, and for qualification of certain corporations as citizens of the United States.

(a) If the vessel be owned by one individual, the oath shall be taken by him or by his duly authorized agent.

(b) If the vessel be owned by several individuals or a firm or unincorporated company, the oath shall be taken by the managing owner or a member of the firm who shall specify the names and places of abode of, and except in the case of a partnership the proportions of the vessel owned by, each of the others, and shall certify to their citizenship.

(c) If the vessel be owned by a corporation, the oath shall be taken by its president, its secretary, or by any other officer or agent thereof duly authorized by a writing under the corporate seal to act in its behalf. Such officer or agent shall also furnish a certificate as to the organization of the corporation and the names of its president or other chief executive officer, chairman of its board of directors, and directors, showing the home address and citizenship of each and the number of directors necessary to constitute a quorum, including a quotation of the pertinent portion of the articles of incorporation, bylaws, or other corporate papers relating to the matter of a quorum. If the corporate owner is qualified as a citizen of the United States under the definition contained in § 3.19 (a)(4), the oath shall be on customs Form 1260 and the accompanying certificate shall include information as to the names, home address, and citizenship of all officers and directors.

(d) In all cases where there is more than one owner, the proportions owned by each shall be stated in the oath.

(e) The oath of the owner or of the master required for documentation may be taken before a collector of customs or before any officer authorized by the laws of a state to administer oaths generally. If the oath is not taken before the collector, it may be mailed to him.

(f) A corporation which meets the qualification requirements of § 3.19(a)(4) as a citizen of the United States and which seeks to operate in trade a vessel owned by such corporation and exempt from documentation under § 3.5 shall file in duplicate with the collector of customs for the district in which the vessel business of the owner is conducted a certificate under oath on customs Form 1260 by its president, its secretary, or by any officer or agent thereof duly authorized by a writing under the corporate seal to act in its behalf. Such officer or agent shall also furnish in duplicate a certificate as to the organization of the corporation and the names of all officers and directors of the corporation, showing the home address and citizenship of each.

(g) A corporation which meets the qualification requirements of § 3.19(a)(4) as a citizen of the United States and which seeks to qualify under the Act of September 2, 1958 (46 U.S.C. 883–1), for any purpose other than as outlined in paragraph (f) hereof shall file in duplicate with the Commissioner of Customs a certificate under oath on customs Form 1260, appropriately modified to omit reference to any vessel, by the corporation's president, its secretary, or by any other officer or agent thereof duly authorized in writing under the corporate seal to act in its behalf. Such officer or agent shall also furnish in duplicate a certificate as to the organization of the corporation and the names of all officers and directors of the corporation, showing the home address and citizenship of each, and shall state in duplicate in writing the reasons for desiring to qualify under the Act and the reasons why qualification is not sought under paragraph (c) or (f) of this section.

(h) If any change occurs in any corporation after the filing of a certificate under oath and the other papers required under paragraph (f) or (g) of this section whereby the corporation is no longer entitled to be deemed a citizen of the United States as defined in § 3.19(a)(4), the corporation shall cause a report of such change to be made in writing in duplicate to the office where the previous certificate under oath was filed.

(i) Upon the filing of a certificate under oath and the other papers required under paragraph (f) or (g) of this section, the collector of customs or the Commissioner of Customs shall furnish the corporation, through its officer or agent, a certificate of filing of such oath on customs Form 1262 which shall be valid for a period of 3 years from the date of its issuance unless there first occurs a change in corporate status requiring a report under paragraph (h) of this section. On or before the date of expiration

of the validity of such certificate, a new

of the validity of such certificate, a new oath on customs Form 1260 and the other papers required by paragraph (f) or (g) of this section shall be filed with the appropriate officer.

(j) The duplicate copy of the oath and other papers required by paragraphs (f) and (h) of this section and a copy of any certificate issued by the collector under paragraph (i) of this section shall be forwarded promptly to the Commissioner of Customs, who will cause notice of the contents thereof to be given to all collectors of customs concerned. The Commissioner will also give similar notice of the contents of any oath filed with him under paragraph (g) of this section.

(Sec. 1, 61 Stat. 633, as amended, 44 Stat. 830, R.S. 4138, 4142, 4139, as amended, 4143, 4144, 4163, 4314, as amended, 4320, as amended, 72 Stat. 1736; 1 U.S.C. 1, 5 U.S.C. 92a, 46 U.S.C. 16, 19–22, 33, 254, 262, 883–1)

§ 3.21a Execution of oaths by a parent or subsidiary corporation.

(a) A parent or subsidiary corporation as defined in § 3.1 (h) and (j) shall file a certificate under oath on customs Form 1263 executed by its duly authorized officer or agent establishing the facts respecting the citizenship of such parent or subsidiary corporation before any vessel owned by a corporation as defined in §3.19(a)(4) shall transport any merchandise or passengers for such parent or subsidiary corporation, whether the transporting vessel is documented as a vessel under the laws of the United States or is exempt from the requirements for documentation under § 3.5(c) or otherwise.

(b) The certificate under oath required under paragraph (a) of this section shall be filed in duplicate with the collector of customs at the vessel's home port if the vessel is documented as a vessel of the United States or, if not so documented, with the collector of customs for the district in which the vessel business of the owner is conducted. Such officer or agent shall also furnish in duplicate a certificate as to the organization of the corporation and the names of all officers and directors of the corporation, showing the home address and citizenship of each.

(c) When there is any change in the status of a parent or subsidiary corporation which is a citizen of the United States whereby such corporation shall cease to be qualified as a citizen, such corporation shall cause a report of such change to be made in writing in duplicate to the collector of customs at the port where the previous certificate under oath was filed.

(d) The duplicate copy of the oath and other papers required by this section shall be forwarded promptly to the Commissioner of Customs, who will cause notice of the contents thereof to be given to all collectors of customs concerned.

(72 Stat. 1736; 46 U.S.C. 883–1)

§ 3.22 Issue and record of marine documents.

(a) An exact copy of each marine document issued by a collector of customs shall be placed in a permanent record kept for that purpose and a proper index made thereof on customs Form 1241 (on customs Form 212 at the port of New York).

(b) At the time application is made for a new document, any former document of the vessel shall be surrendered to the collector to whom the application is made, unless the former document has been lost, mutilated, destroyed, or unintentionally mislaid. (See § 3.31.)

(c) On proof that any vessel has been sold or transferred by process of law and that her former owner has retained the marine document, the collector at the vessel's home port may grant a new document and shall not refuse to issue such a document merely because the last document is retained by the former owner. In any such case, the new owner shall not be required to produce and surrender the former document, but the issuance of the new document does not remove the liability of the holder of the former document for failure to surrender it.

(d) Upon any change in the address of an owner as shown upon a marine document, a prompt report, giving both the old and the new addresses, shall be made to the collector of customs at the vessel's home port and the marine document shall be presented for amendment of the address to any collector of customs at the first opportunity.

(e) No document shall be issued to any vessel prior to the receipt by the collector of the approval of the designation of the home port by or on behalf of the owner in whose name the document is to be issued.

(f) When a document is issued to a vessel on the Great Lakes, it shall be delivered by the collector in a special envelope, customs Form 1503. When a document is issued to a vessel elsewhere than on the Great Lakes, it shall be delivered in a special envelope, customs Form 1502. In the case of the issuance of any document other than a register or an enrollment and license on customs Form 1276, the date upon which the license for the vessel will expire shall be noted plainly on the face of the envelope.

(R.S. 4141, sec. 1, 43 Stat. 947, R.S. 4155, as amended, 4164, as amended, 4176, 4314, as amended, 4319, as amended, 4329, as amended; 46 U.S.C. 17, 18, 25, 34, 44, 254, 259, 271)

§ 3.23 Permanent documentation of vessel absent from home port.

(a) A permanent document may be issued to any vessel absent from her home port upon application to the collector for the home port through the office of the collector at the port where the vessel shall be. In such case, all requirements which would be applicable if the vessel were at her home port shall be met at the port where she is before the application is forwarded, except that the owner's and master's oaths may be executed at the home port.

(b) The collector through whom application was made shall forward a certificate on customs Form 1301 to the collector at the vessel's home port, who shall issue a permanent document and deliver the document either directly or through the collector through whom the application was received.

(Sec. 486, 46 Stat. 725, as amended, R. S. 4328, as amended; 19 U. S. C. 1486, 46 U. S. C. 270)

§ 3.24 Change of master.[14]

(a) When the master of any documented vessel, except a licensed ferryboat or yacht, is changed, the owner or the new master shall report the change to the collector at the port where the change takes place, or where the vessel first arrives thereafter, and produce to him the documents and file with him a declaration properly executed on customs Form 1311. The collector shall then endorse upon the document the name of the new master.

(b) If the declaration on Form 1311 is mailed to the collector, it shall be accompanied by the vessel's outstanding marine document.

(c) Every application for the endorsement of the names of one or two alternate masters on the license of a vessel in addition to the name of the master already endorsed on the license shall be filed with the collector of customs at the home port of the vessel and shall contain a statement of the condition of employment of the vessel. The endorsement of the names of one or two alternate masters upon the license shall be authorized by the collector or an employee in his office properly designated to grant such authorization whenever that officer or employee, after examining the application, deems the condition of employment of the vessel warrants such action. Under no circumstances shall the endorsement of the names of more than two alternate masters upon the license be authorized. The same declarations shall be required of such alternate masters as are required in the case of other masters.

(d) In the case of a vessel on whose license there are endorsed the names of more than one master, the master actually in charge of the vessel shall assume all the duties and responsibilities imposed by any statute upon masters of vessels and is subject to the liabilities provided by any law against masters of vessels during any period in which he is in charge of the vessel.

(e) If two or more vessels are owned by or under the complete control and management of the same person, association, corporation, etc., and are navigated within the limits of the harbor of any town or city, the name of the owner, if an individual, or of some responsible person acting for the owner, may be endorsed as master on the licenses of all such vessels although the person whose name is so endorsed may not be actually employed on any of the vessels. The same declaration shall be required of such persons as is required in the case of other masters. Any person whose name

[14] "Any person or body corporate having more than one-half ownership of any vessel shall have the same power to remove a master, who is also part owner of such vessel, as such majority owners have to remove a master not an owner. This section shall not apply where there is a valid written agreement subsisting, by virtue of which such master would be entitled to possession." (46 U.S.C. 227)

is so endorsed is subject to the liabilities provided by any law against masters of vessels.

(f) The name of the owner, if an individual, or of some responsible person acting for the owner, may be endorsed as master on the license of any unrigged vessel, except one which is required by law to have on board a certificate of inspection and which is required by that certificate to be manned, although the person whose name is so endorsed may not be actually employed on that vessel. The same declaration shall be required of such persons as is required in the case of other masters. Any person whose name is so endorsed is subject to the liabilities provided by any law against the masters of vessels.

(g) The name of the owner, if an individual, or of some responsible person acting for the owner, may be endorsed as master on the license of any vessel engaged in towing from any port or place embraced within the coastwise laws of the United States to any other such port or place plying in whole or in part on inland rivers, canals, waterways, sounds, gulfs, lakes, and harbors, not carrying passengers nor proceeding directly or indirectly to any foreign port or place or to any port or place in noncontiguous territory of the United States, although the person whose name is so endorsed may not be actually employed on that vessel. The same declaration shall be required of such persons as is required in the case of other masters. Any person whose name is so endorsed is subject to the liabilities provided by any law against the masters of vessels.

(R.S. 4171, as amended, 4335, as amended, sec. 486, 46 Stat. 725, as amended; 19 U.S.C. 1486, 46 U.S.C. 40, 276)

§ 3.25 Renewal of license.

(a) A permanent or temporary license shall be presented within 3 days (exclusive of any day on which the customhouse is not open for marine business) after its expiration, to the collector of the district where the vessel may then be, or if the vessel is then at sea, within 3 days after her first arrival within any district. A temporary license shall be surrendered within 10 days after the arrival of a vessel at her home port and shall not be renewed at that port.

(b) If a license is presented for renewal at any time within 30 calendar days prior to the date of expiration shown thereon, it may be renewed for a period of 1 year from that date of expiration.

(c) A license may be renewed at any port, whether a port of documentation or not.

(d) When a license is presented for renewal, the master shall make oath in the form prescribed by § 3.18 (d).

(e) When a license for a vessel on the Great Lakes is renewed, it shall be redelivered by the collector in a special envelope, customs Form 1503. When a license is renewed for a vessel elsewhere than on the Great Lakes, it shall be redelivered in a special envelope, customs Form 1502. In either case, the date upon which the license for the vessel will expire shall be noted plainly on the face of the envelope and any previous notation of a date of expiration shall be deleted.

(f) The collector at the home port of a licensed or enrolled and licensed vessel shall transmit a notice of the date upon which the license will expire and the form of oath to be executed by the master on customs Form 1280 to the last-known address of the owner of the vessel not more than 40 days prior to its expiration nor less than 21 days prior thereto. Neither the failure of a collector to transmit such notice and form of oath nor the fact that the master did not receive it shall be deemed to excuse the master from the penalty or penalties provided by law.

(R.S. 4325, as amended, 4326, 4327, 4498, as amended; 46 U.S.C. 267–269, 49[illegible])

§ 3.26 Surrender of permanent documents.

(a) The marine document shall be surrendered when a vessel is sold or transferred in whole or in part; when the owner of the whole or any part of a vessel dies; when a vessel has been lost, abandoned, dismantled, or taken by an enemy, or otherwise prevented from returning to the United States; when a vessel is burned or broken up; when a vessel is altered in form by being lengthened, shortened, or built upon, or is changed from one denomination to another by a change in the method of rigging or fitting; when the tonnage of a vessel is changed for any reason; when a vessel is altered so that it is no longer of the description set forth in its document; when a vessel changes from one employment to another; when a vessel is placed under foreign registry or flag; when a vessel changes her name; when the home port of a vessel is changed; when a president or secretary whose name appears on the document of a vessel owned by a corporation dies, is removed, or resigns; when a trustee is appointed upon bankruptcy of the owner of the whole or any part of a vessel; when a partnership owning an interest in a vessel is terminated or when there is any change in the membership of such partnership without dissolution of the firm; and when there is any change in the status of a corporation which is a citizen of the United States as defined in § 3.19(a) (4) whereby such corporation shall cease to be qualified as a citizen thereunder.

The approval of the Maritime Administration of the surrender of the document of a vessel covered by a preferred mortgage shall be obtained, except as specified in note 19, § 3.30 (a) or in the case of the forfeiture of the vessel or its sale by the order of any court of the United States or any foreign country.

(b) If any documented vessel is lost, destroyed, or abandoned, the owner shall immediately report the fact to the collector of customs at the home port of the vessel.

(c) A document need not be surrendered because the engine of the vessel is changed, if there is no change in the rig, dimensions, or tonnage of the vessel, nor because of a change in the service of the vessel, when there is no change in trade, nor in the number of persons in its crew. In such a case, a notation of the change shall be made on the document by a collector of customs and initialed by him.

(d) A document need not be surrendered because of the appointment of a guardian or committee for the owner of the whole or any part of the vessel, nor because of the appointment of a receiver, either in bankruptcy or in equity, of the assets of the owner of the whole or any part of the vessel.

(e) When a document is surrendered incident to the sale or other transfer of a vessel to an alien, if such transfer has been approved by the Maritime Administration in accordance with the requirements of law, the following certificate shall be issued by the collector of customs concerned upon the presentation of the bill of sale or other evidence covering the transfer:

I, ----------, collector of customs for the port of ----------, State of ----------, United States of America, do hereby certify that ---------- No. ------, issued at ---------- on ---------- to the ----------, official number ------, was this day surrendered at this port upon the transfer of the vessel to a subject of ----------, which transfer was authorized by the Maritime Administration under its Transfer Order No. MA ------, dated ------.

As witness my hand this ------ day of ----------, 19-----.

(Signed) ----------

Collector of Customs

(R.S. 4146, as amended, 4160, 4170, as amended, 4322, 4325, as amended, 72 Stat. 1736, sec. 30, subsec. 0, 41 Stat. 1004, sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 23, 30, 39, 264, 267, 883–1, 961, 1114)

§ 3.27 Surrender of temporary documents.

(a) Every document granted by the collector at a port other than the home port shall be temporary.[12]

(b) Every temporary document shall be surrendered to the collector within 10 days after the arrival of the vessel at her home port and whenever the surrender of a permanent document is required.

(c) The term "arrival" in the preceding paragraph means the voluntary arrival of the vessel in the regular course of her employment.

(d) The approval of the Maritime Administration of the surrender of the document of a vessel covered by a preferred mortgage shall be obtained, except as specified in note 19, § 3.30 (a).

(R. S. 4146, as amended, 4160, 4162, 4168, 4170, as amended, 4325, sec. 30, subsec. O, 41 Stat. 1004, sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 23, 30, 32, 37, 39, 267, 961, 1114)

§ 3.28 Rebuilt and new vessels.

(a) A vessel may be deemed to be a new vessel in a case in which it has been built entirely of new materials or in a case in which it has been built in whole or in part of old materials taken from another vessel provided no considerable part of the old material used has been left undisturbed or intact without being taken up, refitted, and reset. A vessel may be deemed to have been rebuilt if any considerable part of the hull in its

[12] See note 5, § 3.6.

intact condition without having been broken up is built upon or substantially altered.

(b) When a new vessel is constructed in whole or in part of material taken from an old vessel; when an existing vessel is rebuilt; when in the case of a vessel of more than 500 gross tons, an addition or change in any major component of the hull or superstructure is made and such major component was not constructed in the United States, its Territories (not including trust territories), or its possessions; when a vessel of more than 500 gross tons is otherwise so altered as to give rise to a reasonable belief that such vessel may have been rebuilt, unless such alteration was effected entirely in the United States, its Territories (not including trust territories), or its possessions; or when it is desired, in the case of an unrigged wooden vessel, other than a foreign-built vessel (class 9), that a notation be made in the publication, Merchant Vessels of the United States, as to rebuilding, the owner of the vessel shall submit through the collector of customs at the port where the vessel then is or next arrives thereafter to the Commissioner of Customs a certificate of specifications outlining the work performed on the vessel, showing the place where any such building or rebuilding was effected, and describing the extent to which old materials used were taken up, refitted, and reset or the extent to which parts of the old hull in its intact condition were used or built upon. The certificate shall be accompanied by accurate sketches or blueprints illustrating the extent of the work performed when such sketches or blueprints are available. Such certificate shall also be accompanied by a certificate of the builder, which shall be on customs Form 1261 if the vessel is claimed to be new. In the case of an unrigged wooden vessel, the shipbuilder, in addition to certifying that the vessel is rebuilt and the date of completion and place of such rebuilding, shall certify that the vessel is sound and free from rotten or doted wood in its structural parts; that it is properly fastened and calked; and that it is as good as new in strength and seaworthiness. The Commissioner of Customs shall decide whether or not the vessel is to be considered to be new or rebuilt and, if either, that decision shall be reflected on the vessel's marine document.

(c) A rebuilt vessel shall retain its name and official number and the date and place of rebuild shall be noted on its marine document. Upon a finding under this section that a vessel is new, an application shall be submitted for the award of an official number and all other requirements applicable in the case of any new vessel shall be met before a marine document is issued.

(d) No vessel of more than 500 gross tons which has been rebuilt and has thereby lost its coastwise privileges (see § 3.2(f)) shall be documented for nor permitted to engage in the coastwise trade. When it is claimed that any such rebuilt vessel has not lost its coastwise privileges by virtue of the provisions of section 4 of the Act of July 5, 1960 (sec. 4, 74 Stat. 321), the owner in support of such claim shall submit to the collector of customs concerned with the other papers required by paragraph (b) of this section a certified copy of the contract for rebuilding, showing the date of execution, and a certificate of the builder showing the date the work of rebuilding commenced and the date upon which such work was completed.

(R.S. 4155, as amended, 4179, 37 Stat. 189, R.S. 4319, as amended, sec. 27, 41 Stat. 999, as amended, secs. 2, 3, 70 Stat. 544, secs. 2, 3, 4, 74 Stat. 321; 46 U.S.C. 25, 50, 63, 259, 883, 883a, 883b)

§ 3.29 Change of build or rig.

(a) When a documented vessel is altered in form or tonnage by being lengthened, shortened, or built upon or changed from one denomination to another by a change in rig or fitting, the vessel shall cease to be deemed a vessel of the United States unless she is documented anew. Every such alteration of a vessel of more than 500 gross tons which is not effected entirely within the United States, its Territories (not including trust territories), or its possessions, including the construction of any major components of the hull or superstructure, shall be reported in accordance with the provisions of § 3.28(b), and the master shall submit the statement required by § 4.7(b) of this chapter.

(b) When there is a change in the means of propulsion of a vessel [18] as from steam engine to gas engine or any other alteration which may change the description, the marine document of the vessel shall be surrendered.

(R.S. 4170, as amended, secs. 2, 3, 70 Stat. 544; 46 U.S.C. 39, 883a, 883b)

§ 3.30 Exchange of documents.

(a) Any enrolled and licensed or licensed vessel, other than a vessel documented under the Act of September 2, 1958 (46 U.S.C. 883–1), may be registered upon the surrender [19] of her document to a collector of customs. Except as specified in paragraph (b) of this section, any registered vessel may likewise be enrolled and licensed or licensed.

(b) Neither enrollment nor license for the coasting trade or for the coasting trade and mackerel fishery shall be granted to a vessel prohibited by law from engaging in the coastwise trade. (See §§ 3.2, 3.28, 3.42, and 3.43. Neither enrollment nor license for the fisheries or for the coasting trade and mackerel fishery shall be granted to a vessel prohibited by law from engaging in the American fisheries. (See §§ 3.2 and 3.42.) Neither enrollment and license nor license shall be granted to any vessel having on board merchandise brought from a foreign port until such merchandise shall have been wholly unladen and the duties paid or secured.

(c) No registered vessel shall be permitted to exchange her document unless the collector to whom application is made is satisfied by an affidavit of the owner or master that all equipments purchased and repairs made abroad within the year immediately preceding such application have been duly accounted for and the duties accruing thereon have been paid. If the master gives this affidavit, it shall be executed on customs Form 1304.

(d) No vessel shall be permitted to exchange her marine document at a port other than the home port until the master has applied for the new marine document and has filed his affidavit that the ownership remains as stated in the document to be surrendered. Such affidavit shall be executed on customs Form 1304, which may be modified in appropriate cases by deletion of the matter pertaining to foreign equipment or repairs. If the exchange of documents is made at the home port, the oaths required by § 3.18 shall be filed.

(R.S. 3114, as amended, 3115, as amended, 4322, 4323, as amended, 4337, 72 Stat. 1736, sec. 30, subsec. 0, 41 Stat. 1004, sec. 204, 49 Stat. 1987, as amended, 19 U.S.C. 257, 258, 46 U.S.C. 264, 265, 278, 883–1, 961, 1114)

§ 3.31 Loss of marine document.

When the marine document of any vessel is lost, mutilated, destroyed, or mislaid, the master certifies such fact on customs Form 1305, and the oaths required by § 3.18 are filed at the port of first arrival if that port is the vessel's home port, or the affidavit required by § 3.30 (d) is filed at any other port of first arrival, the collector shall issue a new document, which shall recite the fact that it replaces the one lost, mutilated, destroyed, or mislaid. A document is held to be lost when it is wrongfully withheld from the possession of the owner.[20]

(Sec. 486, 46 Stat. 725, as amended, R. S. 4160, 4326; 19 U. S. C. 1486, 46 U. S. C. 36, 268)

§ 3.32 Sale or transfer of vessel; change in membership of owning partnership.

(a) Except as stated in § 3.35, when a documented vessel is sold or transferred in whole or in part to a citi-

[18] When a vessel's engine is changed but there is no change in the type of motive power, no redocumentation is required unless the installation of the new engine changes the admeasured tonnage of the vessel.

[19] The requirement of subsection O(a) of the Ship Mortgage Act, 1920 (46 U.S.C. 961 (a)), that the document of a vessel covered by a preferred mortgage may not be surrendered without the approval of the Maritime Administration and the mortgagee, does not apply to (1) a renewal of license, including a case in which the former document is replaced by reason of the fact that all renewal spaces are filled; (2) a change of document incident to a change of trade where the ownership and home port remain the same; (3) a change to a permanent document on arrival of a vessel at its home port under a temporary document; (4) the replacement or renewal of a lost, mislaid, or mutilated document where the ownership and home port remain the same; (5) the replacement of a document issued in error or on an improper form; or (6) the replacement of a document of a vessel owned by a corporation when the president or secretary whose name appears thereon dies, is removed, or resigns and there has been no change in ownership. A document may be deemed to be mutilated within the meaning of item (4) above when it has been partially burned, torn, soiled, or otherwise defaced so as to be unsuitable for the purpose for which it was issued.

[20] All questions of what constitutes a wrongful withholding shall be referred to the Commissioner of Customs for determination.

zen,[21] such vessel shall not be deemed a vessel of the United States until documented anew.

(b) In the case of the sale, gift, or conveyance (including conveyance in trust) of the whole or any part of such vessel, a written instrument in the nature of a bill of sale, which may be on customs Form 1340, 1342, 1344, 1346, or 1356, and which shall recite in full the marine document last granted to the vessel before the execution of the instrument, shall be filed with the collector of customs before a new document is granted.

(c) When the owner of the whole or any part of such a vessel dies and there is an administration of his estate, an authenticated copy of the letters of appointment of the personal representative of the deceased owner shall be filed with the collector of customs before a new document is granted to that personal representative or to any of his successors in interest. In such a case, before a new document for a vessel is granted to one who acquires an interest therein as the beneficiary under a will, to the person succeeding to the interest of the deceased owner in case of intestacy, or to any successor in interest of either of them, an authenticated copy of the decree of distribution shall be filed with the collector of customs. The filing of an authenticated copy of the certificate of death or of the will of the deceased owner shall not be required.

(d) In case of the death intestate of the owner of the whole or any part of such a vessel, if there is no administration of his estate the collector shall forward to the Bureau a statement of all the facts and circumstances and, except as provided for in paragraph (e) of this section, an authenticated copy of the certificate of death of the owner, together with any documentary evidence in support of the claim of title presented to him, before a new document is granted to the next of kin of the deceased owner or to his successors in interest.

(e) If it is impossible to obtain an authenticated copy of the certificate of death of the deceased owner of the whole or any part of such a vessel for filing with the collector as required by paragraph (d) of this section, other evidence of death of such deceased owner shall be filed with the collector in lieu thereof.

(f) In case of the sale or conveyance of the whole or any part of such a vessel by a guardian or committee of the owner thereof, an authenticated copy of the letters of guardianship and of the court order, if any, authorizing the transfer of title shall be filed with the collector of customs before a new document is granted.

(g) In case of the appointment of a trustee in bankruptcy of the assets of the owner of the whole or any part of such a vessel, an authenticated copy of the order of the referee or court appointing him as such shall be filed with the collector of customs before a new document is granted.

(h) The certificates, letters, decrees, orders, and other evidence of title referred to in paragraphs (c), (d), (e), (f), and (g) of this section shall not be required to recite a marine document of the vessel concerned.

(i) In the case of the termination of a partnership owning an interest in a vessel because of the addition of a new member, the withdrawal of an old, or both, the death or bankruptcy of a partner, or for any other reason, a written instrument in the nature of a bill of sale, as provided for in paragraph (b) of this section, shall be filed with the collector of customs before a new document is granted.

(j) In the case of a change in membership of a partnership owning an interest in a vessel without dissolution of the firm, there shall be filed with the collector of customs evidence satisfactory to him that there has been no such dissolution and a certificate as to the change which has occurred signed by one or more of the members of the partnership as so changed before a new document is granted.

(R. S. 4170, as amended, 4312, sec. 9, 39 Stat. 730, as amended; 46 U. S. C. 39, 252, 808)

§ 3.33 Recording of bills of sale and mortgages.

(a) When any bill of sale, mortgage, hypothecation, or conveyance of any interest in any vessel is presented to a collector of customs to be recorded,[22] the vendee, mortgagee, pledgee, or transferee shall file with the collector the oath required by section 40, Shipping Act, 1916 (46 U. S. C. 838). The oath of a corporation shall be signed by its president, secretary, or treasurer, or any other official thereof duly authorized by such corporation to execute any such declaration.

(b) No such instrument shall be accepted for recording prior to the receipt by the collector of the approval of the designation of the home port; nor unless the vessel affected is documented as a vessel of the United States or will be so documented substantially simultaneously with the recording of the instrument. If there has been more than one change in ownership of any interest in a vessel and the vessel has not been documented by the intermediate owners, all unrecorded bills of sale which are executed in the form and manner prescribed by this section may be recorded upon documentation of the vessel. No mortgage shall be accepted for recording unless the vessel which it covers was documented as a vessel of the United States at the time the mortgage was made. Any mortgage presented for recording may be on customs Form 1348.

(c) No such instrument shall be valid against any person other than the vendor, mortgagor, pledgor, grantor, the heirs or devisees of any of the foregoing, or a person having actual notice thereof, unless the instrument has been recorded in the office of the collector of customs at the home port of the vessel. If the instrument covers more than one vessel, it shall be recorded at the home port of each vessel and indexed under the name of each vessel whose home port is the port of recordation. The collector shall record all such instruments and certificates of discharge of mortgages in the order of their receipt in books to be kept for that purpose and hereafter indexed on customs Form 1332, continued if necessary on customs Form 1332–A, to show (1) the name of the vessel, (2) the names of the parties to the instrument, (3) the kind and date of the instrument, (4) the interest transferred, mortgaged or discharged, (5) the date, hour, and minute the instrument was received, (6) the book in which the instrument is recorded, (7) the number assigned to the instrument, (8) in the case of a bill of sale or conveyance, the consideration stated in the instrument, and (9) in the case of a mortgage or certificate of discharge of mortgage, the amount and date of maturity of the mortgage.

(d) Each such instrument shall recite the interest of the grantor or mortgagor in the vessel, the names of the persons to whom the interest has been transferred or mortgaged, and the interest trans-

[21] Unless the consent of the Maritime Administration is first obtained, no vessel of the United States may be sold or chartered in whole or in part to any person who is not a citizen or to any corporation, partnership, or association which is not a citizen as defined in section 2 of the Shipping Act, 1916, as amended. (46 U. S. C. 802)

[22] "(a) No sale, conveyance, or mortgage which, at the time such sale, conveyance, or mortgage is made, includes a vessel of the United States, or any portion thereof, as the whole or any part of the property sold, conveyed, or mortgaged shall be valid, in respect to such vessel, against any person other than the grantor or mortgagor, his heir or devisee, and a person having actual notice thereof, until such bill of sale, conveyance, or mortgage is recorded in the office of the collector of customs of the port of documentation of such vessel, as provided in subdivision (b) of this section.

"(b) Such collector of customs shall record bills of sale, conveyances, and mortgages delivered to him, in the order of their reception, in books to be kept for that purpose and indexed to show—

"(1) The name of the vessel;

"(2) The names of the parties to the sale, conveyance, or mortgage;

"(3) The time and date of reception of the instrument;

"(4) The interest in the vessel so sold conveyed, or mortgaged; and

"(5) The amount and date of maturity of the mortgage." (46 U. S. C. 921)

"(a) No bill of sale, conveyance, or mortgage shall be recorded unless it states the interest of the grantor or mortgagor in the vessel, and the interest so sold, conveyed, or mortgaged.

"(b) No bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge thereof, shall be recorded unless previously acknowledged before a notary public or other officer authorized by a law of the United States, or of a State, Territory, District, or possession thereof, to take acknowledgment of deeds.

"(c) In case of a change in the port of documentation of a vessel of the United States, no bill of sale, conveyance, or mortgage shall be recorded at the new port of documentation unless there is furnished to the collector of customs of such port, together with the copy of the bill of sale, conveyance, or mortgage to be recorded, a certified copy of the record of the vessel at the former port of documentation furnished by the collector of such port. The collector of customs at the new port of documentation is authorized and directed to record such certified copy. * * *" (46 U. S. C. 926)

ferred or mortgaged to each. A bill of sale or conveyance shall also recite in full the last marine document of the vessel. A mortgage, whether ordinary or preferred, may, but need not necessarily, recite in full the last marine document of the vessel; if such marine document is not recited, the vessel shall be described by rig, name, official number, and gross tonnage.

(e) The collector shall index on customs Form 1332, continued if necessary on customs Form 1332–A, all decrees of distribution of estates of deceased owners, all orders of referees or courts appointing trustees in bankruptcy, and all orders of courts of record having the effect of transferring any interest in a vessel or discharging a mortgage or lien to show (1) the name of the vessel, (2) the name of the former owner, (3) the name of the new owner, (4) the interest transferred or lien discharged, (5) the name of the court, (6) the title of the case, and (7) the date of the order.

(f) No certificate of death of the owner of any interest in a vessel, letters of appointment of the personal representative of a deceased owner, decree of distribution of the estate of a deceased owner, will of a deceased owner, letters of guardianship appointing a guardian or committee of an owner, order of a referee or court appointing a trustee in bankruptcy of the assets of an owner, nor court order authorizing the transfer of title of any interest in a vessel shall be recorded unless incorporated in a bill of sale, mortgage, hypothecation, or conveyance of an interest in a vessel of the United States.

(g) No bill of sale, conveyance, mortgage, release from mortgage, satisfaction or discharge of mortgage, assignment of mortgage, or certificate of discharge of lien shall be recorded unless previously acknowledged. Any acknowledgment valid under the laws of the State where made may be accepted. No customs officer or employee is authorized by section 486, Tariff Act of 1930, to take such acknowledgments.

(h) Each certificate of discharge of mortgage presented for recording shall be on the customs Form 1363 or in a substantially similar form.

(i) Each bill of sale, mortgage, hypothecation, conveyance, release, satisfaction, assignment or notice of claim of lien shall be endorsed by the collector to show the port of recordation, the exact day, hour, and minute it was received for recordation, the book in which it was recorded, and the number assigned to the instrument.

(j) When an instrument other than a preferred mortgage or assignment of a preferred mortgage (see § 3.38) is to be recorded, the original and one copy shall be presented to the collector, who shall retain the copy for his files.

(k) Any abstract of title of a vessel furnished by the collector of customs at the home port of the vessel shall be on customs Form 1332, continued if necessary on customs Form 1332–A, and shall include any entry respecting each instrument required to be indexed under the regulations contained in this part, including a notice of claim of lien (§ 3.38 (h)).

(l) When the home port of a vessel is changed, whether or not any change in title occurs, the collector of customs at the old home port, upon request of the owner of the vessel, shall forward in duplicate to the collector at the new home port an abstract of title of the vessel, which shall bear at the end thereof the following endorsement:

I certify that the foregoing, which is issued in accordance with the provisions of § 3.33 (l), Customs Regulations, incident to a change in home port, is a true abstract of title of the vessel described above, as appears by the records of this office.

_____ _____,
Deputy Collector.

Port_____
Date_____

(m) The collector at the new home port of a vessel shall record the abstract of title of the vessel forwarded to him in accordance with paragraph (l) of this section, and no bill of sale, mortgage, hypothecation, conveyance, release, satisfaction, assignment, notice of claim of lien, court order conveying title or other instrument shall be recorded at the new home port until such abstract has been received and recorded.

(n) When an abstract of title of a vessel is forwarded to the collector at the new home port of a vessel in accordance with paragraph (l) of this section, the following endorsement shall be made in the index after the last entry for that vessel, and thereafter no instrument for such vessel shall be recorded at the old home port and no entry shall be made in the index with respect to any decree of distribution or order appointing a trustee in bankruptcy:

An abstract of title of the vessel described above was forwarded to the collector of customs at _____ on this date in accordance with the provisions of § 3.33 (l) of the Customs Regulations.

_____ _____,
Deputy Collector.

Date_____

(o) Whenever requested, the collector of customs at the home port of any vessel shall furnish to any person an abstract of title of that vessel, which shall bear at the end thereof the following endorsement:

I hereby certify that the foregoing, which is issued in accordance with the provisions of § 3.33 (o) of the Customs Regulations, and which is not for record, is a true abstract of title of the vessel described above, as appears by the records of this office.

_____ _____,
Deputy Collector.

Port_____
Date_____

(p) No abstract of title of any vessel issued in accordance with paragraph (o) of this section shall be recorded by any collector of customs, nor shall any endorsement be made in the index when such an abstract is furnished to any person.

(Sec. 40, 40 Stat. 902, as amended, sec. 30, subsecs. C, H, 41 Stat. 1000, 1002, sec. 2, 43 Stat. 948; 46 U.S.C. 838, 921, 926, 1012)

§ 3.34 Issue of temporary document upon sale.

(a) When a vessel entitled to be documented changes ownership and is in a port other than the home port designated by the new owner, a temporary document may be issued by the collector at the port where she is.

(b) If application is made to the collector at the home port designated by the new owner and all requirements of law are complied with except the issuance of the document, he shall authorize the collector at the port where the vessel then is to issue a temporary document to the vessel.

(c) If application is made to the collector at the port where the vessel then is, the same proceedings shall be had as are required by law at the vessel's home port, except that the bill of sale shall not be recorded at the port where the vessel is. If the bill of sale is presented to the collector at the port where the temporary document is issued, it shall be noted on his record and then forwarded to the collector at the home port designated by the new owner. The recording fees shall be collected by the issuing collector and forwarded with the bill of sale to the collector at such home port.

(d) The bill of sale shall be recorded by the collector at the home port designated by the new owner, but only after that collector has received from the collector at the former home port and recorded the abstract of title of the vessel as required by § 3.33 (m).

(e) The temporary document shall be surrendered within 10 days after the arrival of the vessel within the district to which she belongs.

(R. S. 4159, 4160, sec. 30, subsecs. C, H, W, 41 Stat. 1000, 1002, 1006, as amended, sec. 2, 43 Stat. 948; 46 U. S. C. 29, 30, 921, 926, 983, 1012)

§ 3.35 Sale abroad.

(a) A documented vessel which, while outside the limits of a customs collection district of the United States and not in any port designated as a port of documentation outside any such district, is sold or transferred in whole or in part to a citizen of the United States may be documented anew as a vessel of the United States at the port designated as the vessel's home port by the new owner or owners in accordance with the requirements of § 3.17 of this part. Such a document shall be issued upon compliance with all the applicable requirements contained in this part, and upon surrender of the previous document at the new home port except that (1) any document so issued shall be a permanent document and (2) the document may be issued without first requiring surrender of the outstanding document to the collector in a case in which the vessel is at sea at the time. In such latter case, the new document shall be forwarded to the United States foreign service officer at the vessel's foreign port of call or the collector of customs at a domestic port of call upon request of the owner or his agent. The foreign service officer or the collector of customs to whom the new document is forwarded shall deliver that document to the vessel upon the vessel's arrival in port and upon surrender of the previous document, which shall be for-

warded by that officer to the collector at the vessel's home port.

(b) A documented vessel which has been sold or transferred in whole or in part to a citizen while abroad and which is not redocumented under paragraph (a) of this section shall nevertheless be entitled on her first arrival thereafter to all the privileges of a vessel of the United States. (R.S. 4166, as amended; 46 U.S.C. 35.)

(R.S. 161, section 2, 23 Stat. 118, as amended; 5 U.S.C. 22, 46 U.S.C. 2)

§ 3.36 Sale or charter to an alien.

(a) When a documented vessel is sold in whole or in part, even in trust or confidence, to one who is not a citizen, its document shall be delivered (1) within 7 days after the sale to the collector at the port where the vessel is, if it is in the United States, or (2) within 8 days after the first arrival of the master in the United States to the collector at the port of his first arrival, if the vessel is at sea or not in the United States at the time of sale.[22]

(b) The master and all watch officers of a documented vessel chartered to one who is not a citizen[23] shall be citizens.

(R. S. 4146, as amended, 4172, sec. 9, 39 Stat. 730, as amended; 46 U. S. C. 23, 41, 808)

§ 3.37 Preferred mortgages.

(a) For the purposes of these regulations a "preferred mortgage" is one which meets the requirements of subsection D of the Ship Mortgage Act.[24]

(b) A preferred mortgage may not be placed upon any vessel which is not a documented vessel, nor upon any vessel of less than twenty-five gross tons[24a] which is a towboat (including tugs and other vessels used for towing), barge, scow, lighter, car float, canal boat, or tank vessel. It may cover more than one vessel, but may not be limited to a part of any vessel.

(c) A mortgage which includes property other than a vessel or vessels may not acquire a preferred status unless it provides for the separate discharge of such other property.

(d) A preferred or ordinary mortgage may be placed on a vessel already covered by a preferred or ordinary mortgage.

(Sec. 30, subsec. D, 41 Stat. 1000, as amended; 46 U.S.C. 922)

§ 3.38 Record and endorsement of preferred mortgages and related instruments.

(a) Every preferred mortgage presented for recording shall be accompanied by three identical copies and, in the case of a blanket mortgage, one additional identical copy for each vessel in excess of one covered by the mortgage. All copies except one, which shall be inserted by the collector in his record of preferred mortgages, shall be certified by the collector and delivered to the mortgagor[25] after the record has been made. The original shall be returned to the mortgagee and a receipt obtained.

(b) The affidavit of the mortgagor required by subsection D (a) (3), of the Ship Mortgage Act, 1920,[26] if not included in the mortgage, shall be presented with each preferred mortgage submitted for recording and shall be retained by the collector.[27] Any acknowledgment of such affidavit valid under the laws of the State where made may be accepted.

(c) No vessel covered by a preferred mortgage shall be granted clearance at any port until the preferred mortgage endorsement required by subsection D (c) of the Ship Mortgage Act, 1920,[28] has been placed on her marine document.

(d) In addition to the matters required by § 3.33 (c), the collector shall note on the index on customs Form 1332, continued if necessary on customs Form 1332–A, the day, hour, and minute that (1) the proposed mortgage endorsement is placed on the marine document, and (2) such notation was made on the index.

(e) When a marine document bearing a preferred mortgage endorsement is surrendered[29] and a new document is issued before the mortgage is satisfied or the vessel released, the endorsement shall be placed on the new document.

(f) For the purposes of this section and the related statutes, an assignment of a preferred mortgage shall be regarded in all respects as a new preferred mortgage.

(g) A notice of claim of lien upon a vessel shall be recorded only if the vessel is covered by a preferred mortgage and

---

[22] See footnote 21, § 3.32.

[24] "(a) A valid mortgage which at the time it is made, includes the whole of any vessel of the United States (other than a towboat, barge, scow, lighter, car float, canal boat, or tank vessel, of less than twenty-five gross tons), shall, in addition, have, in respect to such vessel and as of the date of the compliance with all the provisions of this subsection, the preferred status given by the provisions of section 953 of this title, if—

"(1) The mortgage is endorsed upon the vessel's documents in accordance with the provisions of this section;

"(2) The mortgage is recorded as provided in section 921 of this title, together with the time and date when the mortgage is so endorsed;

"(3) An affidavit is filed with the record of such mortgage to the effect that the mortgage is made in good faith and without any design to hinder, delay, or defraud any existing or future creditor of the mortgagor or any lienor of the mortgaged vessel;

"(4) The mortgage does not stipulate that the mortgagee waives the preferred status thereof; and

"(5) The mortgagee is a citizen of the United States and for the purposes of this section the Reconstruction Finance Corporation shall, in addition to those designated in sections 888 and 802 of this title, be deemed a citizen of the United States.

"(b) Any mortgage which complies in respect to any vessel with the conditions enumerated in this section is hereafter in this chapter called a 'preferred mortgage' as to such vessel.

"(c) There shall be indorsed upon the documents of a vessel covered by a preferred mortgage—

"(1) The names of the mortgagor and mortgagee;

"(2) The time and date the indorsement is made;

"(3) The amount and date of maturity of the mortgage; and

"(4) Any amount required to be indorsed by the provisions of subdivision (e) or (f) of this section.

"(d) Such indorsement shall be made (1) by the collector of customs of the port of documentation of the mortgaged vessel, or (2) by the collector of customs of any port in which the vessel is found, if such collector is directed to make the indorsement by the collector of customs of the port of documentation; and no clearance shall be issued to the vessel until such indorsement is made. The collector of customs of the port of documentation shall give such direction by wire or letter at the request of the mortgagee and upon the tender of the cost of communication of such direction. Whenever any new document is issued for the vessel, such indorsement shall be transferred to and indorsed upon the new document by the collector of customs.

"(e) A mortgage which includes property other than a vessel shall not be held a preferred mortgage unless the mortgage provides for the separate discharge of such property by the payment of a specified portion of the mortgage indebtedness. If a preferred mortgage so provides for the separate discharge, the amount of the portion of such payment shall be indorsed upon the documents of the vessel.

"(f) If a preferred mortgage includes more than one vessel and provides for the separate discharge of each vessel by the payment of a portion of the mortgage indebtedness, the amount of such portion of such payment shall be indorsed upon the documents of the vessel. In case such mortgage does not provide for the separate discharge of a vessel and the vessel is to be sold upon the order of a district court of the United States in a suit in rem in admiralty, the court shall determine the portion of the mortgage indebtedness increased by 20 per centum (1) which, in the opinion of the court, the approximate value of the vessel bears to the approximate value of all the vessels covered by the mortgage, and (2) upon the payment of which the vessel shall be discharged from the mortgage." (46 U. S. C. 922)

[24a] Section 1(b), Public Law 87–303, approved September 26, 1961 (75 Stat. 661), provides that the amendment reducing the minimum tonnage for preferred mortgages on certain classes of vessels from 200 to 25 gross tons under subsection (D) of the Ship Mortgage Act, 1920, as amended (46 U.S.C. 922), shall not apply to (1) any mortgage in existence on the date of enactment or (2) any mortgage placed on a vessel after the date of enacement under a mortgage on such vessel in existence on the date of enactment so long as such existing mortgage remains undischarged.

[25] "The collector of customs upon the recording of a preferred mortgage shall deliver two certified copies thereof to the mortgagor who shall place, and use due diligence to retain, one copy on board the mortgaged vessel and cause such copy and the documents of the vessel to be exhibited by the master to any person having business with the vessel, which may give rise to a maritime lien upon the vessel or to the sale, conveyance, or mortgage thereof. The master of the vessel shall, upon the request of any such person, exhibit to him the documents of the vessel and the copy of any preferred mortgage of the vessel placed on board thereof." (46 U. S. C. 923)

[26] See footnote 24, § 3.37 (a).

[27] The collector of customs has no duty to ascertain whether there is any encumbrance on a vessel for which a preferred mortgage is presented to him for recording.

[28] See footnote 24, §3.37 (a).

[29] See footnote 19, § 3.30 (a).

if the notice has been acknowledged.[20] Any acknowledgment valid under the laws of the State where made may be accepted. No customs officer or employee is authorized by section 486, Tariff Act of 1930, or Customs Delegation Order No. 2 (T. D. 53195, 18 F. R. 832), to take such acknowledgments.

(h) Each notice of claim of lien and certificate of discharge of lien presented to a collector shall be recorded in a book to be kept for that purpose and indexed on customs Form 1332, continued if necessary on customs Form 1332–A.

(i) When a preferred mortgage has been discharged in whole or in part and a certificate of such discharge has been filed with the collector of customs at the home port of any vessel covered by the discharge, the collector at the home port, or the collector at the port where the vessel is, at the direction of the collector at the home port, shall endorse the fact of such discharge upon the document of the vessel. No clearance shall be granted to such vessel until such endorsement has been made.[21]

(Sec. 30, subsecs. C, D, E, G, H, O, W, 41 Stat. 1000, as amended, 1001, 1002, 1004, as amended, 1006; 46 U. S. C. 921–923, 925, 926, 961, 983)

[20] "The collector of customs of the port of documentation shall, upon the request of any person, record notice of his claim of a lien upon a vessel covered by a preferred mortgage, together with the nature, date of creation, and amount of the lien, and the name and address of the person. Any person who has caused notice of his claim of lien to be so recorded shall, upon a discharge in whole or in part of the indebtedness, forthwith file with the collector of customs a certificate of such discharge. The collector of customs shall thereupon record the certificate." (46 U. S. C. 925 (a))

[21] "The mortgagor, upon a discharge in whole or in part of the mortgage indebtedness, shall forthwith file with the collector of customs for the port of documentation of the vessel, a certificate of such discharge. Such collector of customs shall thereupon record the certificate. In case of a vessel covered by a preferred mortgage, the collector of customs at the port of documentation shall (1) indorse upon the documents of the vessel, or direct the collector of customs at any port in which the vessel is found, to so indorse, the fact of such discharge, and (2) shall deny clearance to the vessel until such indorsement is made." (46 U. S. C. 925 (b))

§ 3.39 Certificate of ownership.

The certificate of ownership provided for in subsection I of the Ship Mortgage Act, 1920,[22] shall be executed on customs Form 1330.

§ 3.40 Frontier enrollment and license.

(a) Vessels under frontier enrollment and license[23] may engage in foreign or coastwise trade or the fisheries in waters covered by the license.

(b) In similar cases frontier enrollments shall bear the same endorsements as are placed on registers. When the endorsement required by § 3.2(d)(1), or § 3.2(f) is placed on a frontier enrollment and license, the word "Coasting" in the license shall be deleted, and the word "Fisheries" inserted in lieu thereof. When the endorsement required by § 3.2(e) is placed on a frontier enrollment and license, the words "and Foreign" in the license shall be deleted.

(c) A foreign-built vessel which is owned by a citizen but which was not so owned and documented prior to February 1, 1920, or which was not owned by the United States on June 5, 1920, shall not be granted a frontier enrollment and license, but shall be registered. (See § 3.42 (f).)

(d) A yacht of less than 20 net tons enrolled and licensed to navigate the waters of the northern, northeastern, and northwestern frontiers otherwise than by sea shall not be required to surrender its enrollment and license and obtain a license when proceeding to ports in the United States, its Territories, or possessions, whether by sea or otherwise.

(R.S. 4318, as amended, 4321, as amended, 72 Stat. 1736; 46 U.S.C. 258, 263, 883–1)

§ 3.41 Transfer from frontier enrollment and license.

(a) Except as stated in § 3.40(d), when a vessel under frontier enrollment and license is to proceed to sea, directly or by way of an intermediate port, the vessel shall be required to surrender the frontier document. It may be issued a register if bound on a foreign voyage partly by sea, unless it is a vessel owned by a corporation which is a citizen of the United States as defined in § 3.19(a)(4) (see §§ 3.2(e) and 3.10), or, if qualified, may be issued an enrollment and license when proceeding from one United States port to another by way of the St. Lawrence River and the sea without touching at any foreign port. A vessel is not considered to have touched at a foreign port by reason of being boarded by Canadian authorities for the purposes of inspecting the vessel and taking a passing report, provided that no business is transacted at the port or place of boarding. A vessel under frontier enrollment and license may retain that document when proceeding by way of the Hudson River to any United States port without going to sea.

(b) The collector at a seaport may issue a frontier enrollment and license.

(R.S. 251, 4318, as amended, sec. 27A, 72 Stat. 1736; 19 U.S.C. 66, 46 U.S.C. 258, 883–1)

§ 3.42 Registry of foreign-built vessels.

(a) The application on customs Form 1320 for an official number for a foreign-built vessel (class 9) shall state, in addition to the information therein required, the name of the former owner.

(b) In lieu of the builder's certificate required for a vessel built in the United States, the application shall be accompanied by a photostatic or certified copy of the vessel's foreign register and of its foreign measurement certificate, if there be one, together with a duly authenticated translation of any such evidence that may be written in a foreign language. Satisfactory evidence shall be produced to establish that the transfer of registry has the approval of the foreign government concerned. If the vessel was built for the applicant and never under foreign registry, the builder's certificate shall be produced but no approval of a foreign government shall be required. If the vessel was not built for the applicant, satisfactory evidence of ownership shall be produced as in the case of a vessel built in the United States. There shall also be produced a certificate of the merchant marine officer in charge that the vessel is safe to carry dry and perishable cargo, and if the vessel is required to possess a certificate of inspection,[25] it shall be produced.

(c) The applicant shall submit a certificate stating that:

(1) The transfer of the vessel conveyed complete and unconditional title and ownership to the purchaser;

(2) There is no agreement or understanding reserving to the vendor, or to any person who is not a citizen, any interest in the vessel or its operation, or any right of control thereof;

(3) The transfer is intended to be permanent and not temporary, no right to repurchase the vessel is reserved to the vendor, and there is no understanding for its retransfer:

(4) The transfer was not made during a voyage of the vessel or while it was in a blockaded port; and

(5) The transfer was not made to avoid the consequences to which a vessel of a belligerent is exposed.

(d) The papers filed in connection with the application for documentation in accordance with the requirements of this section and any other pertinent information shall be forwarded to the Commissioner of Customs for consideration before the granting of a document to the vessel. Except as otherwise provided for in this section, the usual requirements for registry shall be complied with.

(e) No foreign-built vessel owned and documented prior to February 1, 1920, by a citizen nor one owned by the United States on June 5, 1920, and sold to and owned by a citizen shall engage in the

[22] "Each collector of customs shall permit records made under the provisions of this chapter to be inspected during office hours, under such reasonable regulations as the collector may establish. Upon the request of any person the collector of customs shall furnish him from the records of the collector's office (1) a certificate setting forth the names of the owners of any vessel, the interest held by each owner, and the material facts as to any bill of sale or conveyance of, any mortgage covering, or any lien or other incumbrance upon, a specified vessel, (2) a certified copy of any bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge in respect to such vessel, or (3) a certified copy as required by subdivision (c) of section 926 of this title. * * *." (46 U. S. C. 927)

See § 4.98 of this chapter for fees to be collected.

(Sec. 30, subsecs. I, W, 41 Stat. 1002, 1006; 46 U.S.C. 927, 983)

[23] "Any vessel of the United States, navigating the waters on the northern, northeastern, and northwestern frontiers, otherwise than by sea shall be enrolled and licensed in such form as other vessels; such enrollment and license shall authorize any such vessel to be employed either in the coasting or foreign trade on such frontiers, and no certificate of registry shall be required for vessels so employed. Such vessel shall be, in every other respect, liable to the regulations and penalties relating to registered and licensed vessels." (46 U. S. C. 258)

[25] See § 3.54.

American fisheries, but it is otherwise unlimited as to documents and trade so long as it continues in such ownership. When a marine document is issued to such a vessel, the following notation shall be made thereon:

As amended by section 5 of the Panama Canal Act and by the act of August 18, 1914, and sections 22, 27, and 38 of the Merchant Marine Act of June 5, 1920, as amended. This vessel shall not engage in the American fisheries.

If the vessel is owned by a corporation which is a citizen of the United States as defined in § 3.19(a)(3) or § 3.19(b), the notation required by § 3.2(d) shall also be made on the document.

(f) A foreign-built vessel which is owned by a citizen, but which was not so owned and documented on February 1, 1920, or which was not owned by the United States on June 5, 1920, is limited to the foreign trade. A foreign-built vessel admitted to American registry and thereafter sold foreign in whole or in part or placed under foreign registry is limited, upon afterward becoming the property of a citizen, to the foreign trade. When a register is issued to a vessel of either such class, the following notation shall be made thereon:

As amended by section 5 of the Panama Canal Act, by the act of August 18, 1914, by section 27 of the Merchant Marine Act of June 5, 1920, as amended, and by the act of May 24, 1938, entitling the vessel to engage only in trade with foreign countries or the islands of Guam, Tutuila, Wake, Midway, and Kingman Reef. This vessel shall not engage in the coastwise trade or the American fisheries.

(g) A foreign-built vessel which has been purchased from the Maritime Administration of the War Shipping Administration by a citizen shall not engage in the American fisheries, but it is otherwise unlimited as to documents and trade so long as it continues in such ownership. When a marine document is issued to such a vessel, the following notation shall be made thereon:

As amended by section 9 of the Shipping Act, 1916, as amended. This vessel shall not engage in the American fisheries.

If the vessel is owned by a corporation, the notation required by § 3.2 (d) shall also be made on the document.

(R.S. 4132, as amended, sec. 22, 41 Stat. 997, secs. 2, 9, 39 Stat. 729, as amended, 730, as amended, sec. 27, 41 Stat. 999, as amended, 72 Stat. 1736; 46 U.S.C. 11, 13, 802, 808, 883, 883–1)

§ 3.43 Documentation of American-built foreign-flag vessels.

(a) In the case of an American-built foreign-flag vessel which has never been documented as a vessel of the United States, a builder's certificate shall be produced unless a certificate of record has been issued to the vessel previously. A certificate of admeasurement shall also be produced unless a certificate of record has been issued and the tonnage of the vessel has not since been changed. Application for an official number shall be made in accordance with 3.42(a).

(b) In the case of an American-built foreign-flag vessel which was documented as a vessel of the United States before being placed under foreign flag, the production of a builder's certificate shall not be required, nor shall the production of a certificate of admeasurement unless the tonnage of the vessel has been changed. The official number originally awarded to the vessel shall be retained and the vessel shall be documented in the name under which it was last documented as a vessel of the United States.

(c) The application for documentation shall be accompanied by a photostatic or certified copy of the vessel's foreign register and foreign measurement certificate, if there be one, together with a duly authenticated translation of any such document that may be written in a foreign language. Satisfactory evidence shall be produced to establish that the transfer of registry has the approval of the foreign government concerned. If the vessel was not built for the applicant, satisfactory evidence of ownership shall be presented as in the case of a vessel of the United States.

(d) The applicant shall submit a certificate as required by § 3.42 (c).

(e) The papers filed in connection with the application for documentation in accordance with the requirements of this section and any other pertinent information shall be forwarded to the Commissioner of Customs for consideration before the granting of a document to the vessel. Except as otherwise provided for in this section, the usual requirements for registry shall be complied with.

(f) In appropriate cases, the notation required under § 3.2(f) shall be endorsed on a document issued under this section.

(R.S. 4132, as amended, sec. 27, 41 Stat. 999, as amended; 46 U.S.C. 11, 883)

§ 3.44 Foreign-built yachts.

Any foreign-built yacht purchased by a citizen of the United States may be documented upon compliance with all the requirements set forth in § 3.42. The collector of customs may then issue to any such yacht owned by a citizen a consolidated certificate of enrollment and yacht license on customs Form 1290 or, except upon the Great Lakes, a license of yacht under 20 tons on customs Form 1288. Any document issued to such a yacht shall have written across its face the legend, "This vessel shall not engage in the coastwise trade or the American fisheries."

(R.S. 4132, as amended, 4214, as amended; 46 U.S.C. 11, 103)

§ 3.45 Certificate of protection.

Any foreign-built undocumented yacht owned by a citizen is entitled to legal protection as property of a citizen.[38] The collector may issue to any such vessel a certificate that the bill of sale has been filed in his office and that it is valid in form and substance. This certificate shall be in substantially the following form:

FOREIGN-BUILT AMERICAN-OWNED YACHT

I, _____, collector of customs for the port of _____, State of _____, United States of sale, bearing date of _____, 19____, of the _____
(Class and name)
net tonnage, sold and transferred by _____, of _____, in _____ to _____ or _____, State of _____, United States of America, is in form and substance valid and effective in law; that it has been filed in this office; and that the said _____ is a citizen of the
(Purchaser)
United States.

_____, 19__,
_____
Collector of Customs

(R.S. 4190; 46 U.S.C. 61)

[38] "No document certifying or proving any vessel to be the property of a citizen of the United States shall be issued, except to vessels duly registered or enrolled and licensed as vessels of the United States, or to vessels which shall be wholly owned by citizens of the United States, and furnished with or entitled to customhouse documents." (46 U. S. C. 61)

§ 3.46 Recorded vessels.

In the documentation of a recorded vessel (class 3), no builder's certificate shall be required. No admeasurement certificate shall be required unless the vessel has been altered since the certificate of record was issued.

§ 3.47 Record of American-built vessels owned by aliens.

(a) A vessel built in the United States, never before documented, and belonging wholly or in part to an alien may be granted a certificate of record on customs Form 1316. Such a vessel may be documented as a vessel of the United States if transferred to a citizen.

(b) Before a certificate of record is issued, a builder's certificate on customs Form 1261 and a certificate of admeasurement on customs Form 1414 shall be filed with the collector.

(c) Whenever the master or name of a recorded vessel is changed, the collector at the port where the vessel is, or the collector at the port where the vessel next arrives if it is at sea or in a foreign port, shall endorse such change upon the certificate of record on the written application of one or more of the owners.

(R.S. 4132, as amended, 4180, 4181, 4182, as amended, 4183, as amended; 46 U.S.C. 11, 54, 55, 56, 73)

§ 3.48 Certificates of record.

Certificates of record shall be consecutively numbered. An exact copy of each certificate shall be placed in a permanent record kept for that purpose and a proper index made thereof on customs Form 1241 appropriately modified (on customs Form 2112 at New York). When a recorded vessel is documented, the certificate of record shall be surrendered, canceled, and forwarded to the Commissioner of Customs and the collector at the port of issue shall be notified.

§ 3.49 Prizes and forfeited vessels.

If application is made for documentation of a vessel of class 4 or 5, all the requirements relating to documentation, except the filing of a builder's certificate shall be complied with, and the collector shall be furnished with a properly au-

thenticated copy of the decree of condemnation and the proof of the applicant's ownership.

(R.S. 4132, as amended; 46 U.S.C. 11)

§ 3.50 Inspection of marine documents.

Whenever a vessel of the United States is in commission, its marine document shall be on board, shall be accessible to the master or other person in charge or command, and shall be produced to any customs officer upon demand,[37] except when the document is in the custody of the collector for some required official purpose, or except in the case of a vessel within the purview of § 3.24 (e) and (f).

(R.S. 4335, as amended, 4336, as amended; 46 U.S.C. 276, 277)

§ 3.51 Change of name of documented vessel.

(a) The name of a documented vessel (including any documented yacht) shall not be changed except with the consent and approval of the collector, assistant collector, or deputy collector in charge of marine work for the vessel's home port.[38]

[37] "Any officer concerned in the collection of the revenue may at all times inspect the register or enrollment or license of any vessel or any document in lieu thereof; and if the master or other person in charge or command of any such vessel shall not exhibit the same, when required by such officer, unless the vessel is one which by regulation of the Secretary of the Treasury is not required to have its register or enrollment or license or document in lieu thereof on board, such master or person in charge or command shall be liable to a penalty of $100, unless the failure to do so is willful, in which case he shall be liable to a penalty of $1,000 and to a fine of not more than $1,000 or imprisonment for not more than one year, or both." (46 U. S. C. 277.)

[38] "The Secretary of the Treasury shall be empowered to change the names of vessels of the United States on application of the owner or owners of such vessels when in his judgment there shall be sufficient cause for so doing." (46 U. S. C. 51. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

"No master, owner, or agent of any vessel of the United States shall in any way change the name of such vessel, or by any device, advertisement, or contrivance deceive or attempt to deceive the public, or any officer or agent of the United States, or of any State, or any corporation or agent thereof, or any person or persons, as to the true name or character of such vessel, on pain of the forfeiture of such vessel." (46 U. S. C. 50)

(b) Each application for change of name shall be executed on customs Form 1323 by the owner or owners of the vessel and shall be submitted in duplicate to the deputy collector at the vessel's home port.

(c) In applicable cases there shall be filed with the deputy collector: (1) The consent of the mortgagee or other beneficiary under each lien, mortgage, or other encumbrance of record at the vessel's home port, and (2) a certified copy of any approval of the Martime Administration required by subsection O(a), Ship Mortgage Act, 1920.[38a]

(d) If the application is approved, the approving officer shall so indicate by a note in the appropriate space provided on customs Form 1323, deliver the original to the applicant, and retain the duplicate in the records of his office. If the application is disapproved, the applicant shall be notified in writing.

(e) The applicant shall cause notice of the order for the change of name to be published in some daily or weekly newspaper of general circulation at or nearest to the home port of the vessel in at least four consecutive issues. The notice shall be in the following form:

Notice is hereby given that an order dated _____ has been issued by the undersigned authorizing the name of the _____ _____
(Rig) (Name)
official number _____, owned by _____, of which _____ is the home port, to be changed to _____.

_____
(Signature and title)

_____
(Port)

(f) No document shall be issued to the vessel in the new name until the applicant has paid the fee prescribed by § 3.52 [38b] and, except as specified in paragraph (g) of this section, until he has complied with paragraph (e) of this section and has furnished to the deputy collector at the vessel's home port (1) a declaration of publication signed by a proper representative of the newspaper in which the order for the change of name was published setting forth the wording of the order, the dates of publication, and the payment of the cost of advertising, or (2) a copy of each of the four consecutive issues of the newspaper in which the order appeared, together with a receipt for the payment of the cost of advertising.

(g) Documentation of the vessel in the new name shall not be withheld until notice of the order for the change has been published as required by paragraph (e) of this section, if the deputy collector at the vessel's home port is satisfied that the contract for publication has been entered into and he has been furnished with a receipt for the payment of the cost thereof, but the applicant shall within a reasonable time after publication furnish to the deputy collector the evidence prescribed in paragraph (f) (1) or (2) of this section.

(h) The cost of advertising and of procuring any evidence required by this section shall be paid by the applicant.

(i) The order for change of name shall be effective only if the vessel is documented in the new name within a period of 6 months from the date of the order.

(j) If there is a change in ownership of a vessel and the new owner applies for a change of name of the vessel, his designation of home port shall be in the name under which the vessel was last documented. A designation of home port shall not be required to be submitted merely by reason of a change of name.

(k) A vessel which is to be redocumented after being out of documentation shall be redocumented only under the name and official number in which it was last documented. However, if an application for a change in name is submitted simultaneously with an application for the redocumentation of such a vessel and the vessel is then marked with a name other than that under which it was last documented, and if the change in name is approved, the approving officer may issue the document in the old name and immediately issue the further document incident to the change in name without requiring that the vessel be marked with the name under which it was previously documented.

(l) Whenever any vessel documented or formerly documented as a vessel of the United States has been sold or transferred in whole or in part, or altered in tonnage, description, or rig, that vessel shall be documented anew only under the name in which it was last documented. However, if an application for change of name is submitted simultaneously, if the vessel is then marked with a name other than that in which it was last documented, and if the change in name is approved, the vessel may be documented anew without requiring the former name to be marked, provided the vessel is forthwith documented in the new name and provided that that name is then correctly marked on the vessel in compliance with the applicable requirements.

(R.S. 4170, as amended, 4179, secs. 1–3, 41 Stat. 436, as amended, 437, as amended; 46 U.S.C. 39, 50–53)

NOTE: Treasury Decision 53530, 19 F. R. 4405, July 17, 1954, provides as follows:

The International Regulations for Preventing Collisions at Sea, which came into force on January 1, 1954, prescribe in Rule 31 that the signal of distress for ships with a radiotelephone is the spoken word "MAYDAY."

Notice is hereby given that, for obvious reasons, the Bureau as a matter of policy will not approve the use of a name, either in connection with an original documentation or an application for change of name of a documented vessel which is actually or phonetically identical with, or so similar as to be confused with, the international radiotelephone distress signal "MAYDAY."

This action coincides with a similar precautionary measure taken by Great Britain.

§ 3.52 Fee for change of vessel's name.

When a change in the name of a vessel is approved, the following fees shall be paid by the owners of vessels to collectors of customs: for a vessel of 99 gross tons or under, $10; for a vessel of 100 gross tons or up to and including 499 gross tons, $25; for a vessel of 500 gross tons or up to and including 999 gross tons, $50; for a vessel of 1,000 gross tons or up to and including 4,999 gross tons, $75; for a vessel of 5,000 gross tons or over, $100.

(Sec. 3, 41 Stat. 437; 46 U.S.C. 53)

§ 3.53 Yacht privileges and obligations.

(a) A vessel documented at a yacht shall be used exclusively for pleasure and shall not transport merchandise nor

[38a] The requirement of subsection O (a) of the Ship Mortgage Act, 1920 (46 U. S. C. 961 (a)), that the document of a vessel covered by a preferred mortgage may not be surrendered without the approval of the Maritime Administration and the mortgagee applies to the surrender of the document of such a vessel for the purpose of changing its name.

[38b] The fee is due upon approval of the application whether or not the vessel is documented in the new name.

carry passengers for pay. A vessel which is so documented and which is not engaged in any trade nor in any way violating the customs or navigation laws of the United States may proceed from port to port in the United States or to foreign ports without clearing and is not subject to entry upon its arrival in a port of the United States, provided it has not visited a hovering vessel.

(b) Upon the application of the owner on customs Form 1250, submitted through a collector of customs, a commission may be issued by the Commissioner of Customs to any vessel licensed or enrolled and licensed as a yacht, belonging to a regularly organized and incorporated yacht club, to identify such yacht and its owner during a foreign voyage. This commission is a token of credit to any United States official and to the authorities of any foreign power for the privileges enjoyed under it.

(c) On the return to the United States of any yacht so commissioned, such commission shall be surrendered to the customs officer to whom the required report of arrival is made.

(d) A cruising license [1] may be issued to a yacht of a foreign country only if it has been made to appear to the satisfaction of the Secretary of the Treasury that yachts of the United States are allowed to arrive at and depart from ports in such foreign country and to cruise in the waters of such ports without entering or clearing at the customhouse thereof and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage taxes, or charges for cruising licenses. It has been made to appear to the satisfaction of the Secretary of the Treasury that yachts of the United States are granted such privileges in the following countries:

Argentina.	Greece.
Australia.	Honduras.
Bahama Islands.	Jamaica.
Canada.	Liberia.
Cuba.	Netherlands.
Great Britain.	

(e) In order to obtain a cruising license for a yacht of any country listed in paragraph (d) of this section there shall be filed with the collector an application therefor executed by the yacht owner which shall set forth his address, and identify the vessel by flag, rig, name, and such other matters as are usually descriptive of a vessel. The application shall also include a description of the waters in which the yacht will cruise, and a statement of the probable time it will remain in such waters. Upon approval of the application, the collector of customs will issue a cruising license in the form prescribed by paragraph (f) of this section permitting the yacht, for a stated period not to exceed 6 months, to arrive at and depart from the United States and to cruise in specified waters of the United States without entering and clearing, without filing manifests and obtaining or delivering permits to proceed, and without the payment of entry and clearance fees, or fees for receiving manifests and granting permits to proceed, duty on tonnage, tonnage tax, or light money. The license shall be granted subject to the condition that the vessel shall not engage in trade or violate the laws of the United States in any respect. The master shall comply with section 433 of the Tariff Act of 1930 upon the vessel's arrival at every port or place within the United States.

(f) Cruising licenses shall be in the following form:

LICENSE TO CRUISE IN THE WATERS OF THE UNITED STATES

To Collectors of Customs:

For a period of ---------- from ---------- the ----------
(Date) (Flag) (Rig)
yacht ---------- belonging to
(Name)
---------- of ----------.
(Owner's name) (Address)

shall be permitted to arrive at and depart from the United States and to cruise in the waters of the customs collection district of ----------
(Name of district or districts)

without entering and clearing, without filing manifests and obtaining or delivering permits to proceed, and without the payment of entry and clearance fees, or fees for receiving manifests and granting permits to proceed, duty on tonnage, tonnage tax, or light money.

This license is granted subject to the condition that the yacht named herein shall not engage in trade or violate the laws of the United States in any respect. Upon arrival at each port or place in the United States, the master shall report the fact of arrival to the customs officer at the nearest customhouse. Such report shall be made within 24 hours, exclusive of any day on which the customhouse is not open for marine business.

Issued this ------ day of ----------, 19-----.

Deputy Collector

(g) A foreign-flag yacht which is not in possession of a cruising license shall be required to comply with the laws applicable to foreign vessels arriving at, departing from, and proceeding between ports of the United States.

(R.S. 4197, as amended, 4214, as amended, 4217, as amended, 4367, 4368, sec. 4, 28 Stat. 625, sec. 5, 35 Stat. 425, as amended, secs. 433, 434, 435, 441, 46 Stat. 711, as amended, 712, as amended; 19 U.S.C. 1433, 1434, 1435, 1441, 46 U.S.C. 91, 103, 104, 105, 107, 313, 314)

§ 3.54 Vessels to be inspected before documentation.

The following vessels shall undergo inspection by the proper officers and receive certificates of inspection before marine documents are issued to them:

(a) Every steam vessel over 65 feet in length, and every steam-propelled tugboat or towboat of any length, except public vessels of the United States, but including vessels owned or operated by the Maritime Administration or any corporation organized or controlled by it.

(b) Every vessel above 15 gross tons carrying freight for hire and every vessel of above 15 gross tons and in excess of 65 feet in length carrying passengers for hire, but not engaged in fishing as a regular business, propelled by gas, fluid, naphtha or electric motors. A motor vessel of 15 gross tons plus a fraction of a ton is considered to be over 15 gross tons.

(c) Every ferryboat, canal boat, yacht, or other small vessel of like character over 65 feet in length and propelled by steam.

(d) Every sail vessel over 700 tons carrying passengers for hire.

(e) Every seagoing barge of 100 gross tons or over.

(f) Every other vessel over 100 gross tons carrying passengers for hire.

(g) Every seagoing vessel of 300 gross tons and over propelled in whole or in part by an internal-combustion engine, except those engaged in fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industry.

(h) Every passenger-carrying vessel of a class set forth in paragraphs (a), (b), or (c) of this section, when navigated on Irondequoit Bay, N. Y.

(i) Every vessel, regardless of tonnage, size, or means of propulsion, whether self-propelled or not, and whether carrying freight or passengers for hire or not, that shall have on board any inflammable liquid cargo in bulk, except public vessels owned by the United States and not engaged in commercial service.

(j) Every vessel carrying more than six passengers, except public vessels of the United States, but including vessels owned or operated by the Maritime Administration or any corporation organized or controlled by it, which is:

(1) Propelled in whole or in part by steam or by any form of mechanical or electrical power and is of 15 gross tons or less; or,

(2) Propelled in whole or in part by steam or any form of mechanical or electrical power and is of more than 15 gross tons and less than 100 gross tons and not more than 65 feet in length measured

[1] "Whenever it shall be made to appear to the satisfaction of the President of the United States that yachts used and employed exclusively as pleasure vessels and belonging to any resident of the United States are allowed to arrive at and depart from any foreign port and to cruise in the waters of such port without entering or clearing at the customhouse thereof and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage taxes or charges for cruising licenses, the Commissioner of Customs may authorize and direct the customs authorities at the various ports of entry of the United States to allow yachts from such foreign port used and employed exclusively as pleasure vessels to arrive at and depart from any port of the United States and to cruise in waters of the United States without the payment of any charges for entering or clearing, dues, duty per ton, or tonnage taxes, but the Commissioner of Customs may, in his discretion, direct that such foreign yachts shall be required to obtain licenses to cruise, in a form prescribed by him, before they shall be allowed under the provisions of this section to cruise in waters of the United States. Such licenses shall be issued without cost to such yachts and shall prescribe such limitations as to length of time, direction, and place of cruising and action, and such other particulars as the Commissioner of Customs may deem proper." (46 U. S. C. 104. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

The Secretary of the Treasury was designated by section 1 of Executive Order 10289 (3 CFR, 1951 Supp., ch. II) to perform the function of the President to make determinations necessary as a prerequisite to the extension of reciprocal privileges under the above-quoted statute.

from end to end over the deck excluding sheer; or,

(b) Any appeal from a revocation or

from end to end over the deck excluding sheer; or,

(3) Propelled by sail and is of 700 gross tons or less; or,

(4) Non-self-propelled and is of 100 gross tons or less.

(R.S. 4498, as amended, 46 U.S.C. 496)

§ 3.55 Citizenship of masters of documented vessels.

Every vessel of the United States shall be commanded by a citizen or surrender her document.

(R.S. 4131, as amended; 46 U.S.C. 221)

§ 3.56 Revocation or denial of document.

(a) Before revoking the document of a vessel which is being, or is intended to be, used illegally,[40] the collector of customs shall present charges to the owner of the vessel and give such owner a reasonable time to reply; except that, if the evidence is practically conclusive and immediate action is necessary, the collector shall forthwith revoke the document, subject to an appeal by the owner to the Commissioner of Customs.

[40] "Subject to appeal to the Secretary of the Treasury and under such regulations as he may prescribe, whenever either the collector of customs of the district in which any vessel is, or is sought to be, registered, enrolled, or licensed, or the Commandant of the Coast Guard in the case of any vessel which is, or is sought to be numbered, is shown upon evidence which he deems sufficient that such vessel is being, or is intended to be, employed to smuggle, transport, or otherwise assist in the unlawful introduction or importation into the United States of any merchandise or person, or to smuggle any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, or whenever, from the design or fittings, of any vessel or the nature of any repairs made thereon, it is apparent to such collector or Commandant that such vessel has been built or adapted for the purpose of smuggling merchandise, the said collector or Commandant shall revoke the registry, enrollment, license, or number of said vessel or refuse the same if application be made therefor, as the case may be. Such collector or Commandant and all persons acting by or under his direction shall be indemnified from any penalties or actions for damages for carrying out the provisions of this section." (19 U.S.C. 1704)

(b) Any appeal from a revocation or denial of document by a collector shall be in writing. It shall be filed in triplicate with the collector, who shall retain one copy in his office. The owner may submit with his appeal corroborative evidence in the form of written statements from persons having actual knowledge of the facts, and, if pertinent, a detailed description and blueprints of the vessel. Such evidence, with two copies of the owner's appeal, shall be promptly forwarded to the Commissioner of Customs, together with the collector's report, which shall present in detail the facts and evidence supporting his action and any additional comments he desires to make regarding any facts not before him at the time of his original action.

(Sec. 4, 49 Stat. 519 as amended; 19 U.S.C. 1704)

§ 3.57 Report of laid-up vessels.

Each collector shall submit to the Commissioner of Customs a report of all vessels of the United States laid up in his district on December 31 of each year.

Documentation of Vessels Under the Act of August 9, 1954

§ 3.60 Vessels entitled to documents.

(a) Any vessel (except a vessel constructed under the provisions of the Merchant Marine Act, 1936, as amended), not documented under the laws of the United States, which is acquired by or made available to the Secretary of Commerce, may be documented under the act of August 9, 1954.[41]

(b) Vessels registered pursuant to this section shall not engage in the coastwise trade unless in possession of a valid unexpired permit to engage in that trade issued by the Secretary of Commerce under authority of section 3(c) of the act of August 9, 1954.

[41] It is not necessary that the name and hailing port be marked prior to documentation on a vessel to be documented under §§ 3.60 to 3.74.

A vessel may be documented under such sections although no certificate of inspection has been issued or filed with the collector.

The master and watch officers of a vessel documented under such sections shall be citizens of the United States, except in those cases where that requirement of law is waived as provided for in section 3(b) of the act of August 9, 1954.

(c) Any vessel which is entitled under the provisions of paragraph (a) of this section to be registered may be enrolled and licensed if 20 net tons or over, or, if under 20 net tons, licensed for the coasting trade under the act of August 9, 1954, provided a valid unexpired permit to engage in the coastwise trade issued by the Secretary of Commerce under the authority of section 3(c) of the act of August 9, 1954, is filed with the collector of customs to whom application for enrollment and license or license is made.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

§ 3.61 Provisional register.

(a) Subject to prior authorization by the Commissioner of Customs in each case, a consular officer of the United States, or the captain of the Port of Cristobal or Balboa, C.Z., may issue a provisional register to a vessel abroad which has been acquired by or made available to the Secretary of Commerce.

(b) A copy of every provisional register issued under this section shall be forwarded immediately by the issuing officer through the usual channels to the Commissioner of Customs.

(c) Such provisional register shall entitle the vessel to the privilege of a vessel of the United States in trade with foreign countries, American Samoa, or the Island of Guam, until the expiration of 6 months from the date thereof, until 10 days after the vessel's arrival at a port in the United States, or until the effective date of an order of the Commissioner of Customs requiring its surrender, whichever may happen first, and no longer.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

§ 3.62 Marine documents; classes; period of validity.

(a) Marine documents issued under the act of August 9, 1954, shall consist of registers, enrollments and licenses, and licenses.

(b) All marine documents (except provisional registers) issued under the act of August 9, 1954, shall be permanent, whether granted to vessles at their home ports or at ports other than their home ports.

(c) Every marine document issued under the act of August 9, 1954, shall be valid until the effective date of an order of the Commissioner of Customs requiring its surrender, unless sooner terminated as provided for in any of the provisions of §§ 3.60 to 3.74.

(d) Any document issued under the act of August 9, 1954, shall be valid only so long as the vessel to which it is granted is owned as, and of the description, stated therein.

(e) Any enrollment and license or license issued under the act of August 9, 1954, shall be valid only so long as the permit issued to the vessel by the Secretary of Commerce remains in force.

(f) Any document issued under the act of August 9, 1954, shall be surrendered at any time that such surrender may be ordered by the Commissioner of Customs. No vessel, the surrender of the documents of which has been so ordered, shall have, after the effective date specified in such order, the status of the vessel of the United States unless documented anew.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

§ 3.63 Marine documents; execution of.

All marine documents issued under the act of August 9, 1954, shall be executed as prescribed in § 3.7.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

§ 3.64 Marine documents to include dimensions and tonnage.

Every marine document issued to a vessel under the act of August 9, 1954, shall, whenever possible express the data specified in § 3.9.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

§ 3.65 Application for official number and signal letters.

(a) Application for an official number for a vessel to be documented under the act of August 9, 1954, shall be made in triplicate by the Secretary of Commerce and delivered to the Commissioner of Customs directly or through the collector of customs at the home port, or through the collector of customs at the port at which the Secretary of Commerce intends to document the vessel. The application may contain a request that signal letters be awarded and shall show the following on its face or on an attachment when suitable spaces are not provided on the form for such information:

(1) That the United States represented by the Secretary of Commerce is the owner of the vessel.

(2) That the vessel is not documented under the laws of the United States.

(3) That it has been acquired by or made available to the Secretary, as the case may be.

(4) That it has not been constructed under the provisions of the Merchant Marine Act, 1936, as amended.

(5) The material of which the hull is constructed.

(6) The date and place of build of the vessel, if possible.

(7) The matters required by § 3.64 to be shown on the document.

(b) Official numbers issued to such vessels shall be prefaced by the letters MA. The issuance shall be as provided for in § 3.13 (c).

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

§ 3.66 Designation of home port.

Prior to documentation, the approval of the Commissioner of Customs of the designation of home port shall be obtained by the Secretary of Commerce. The designation shall be made by the Secretary of Commerce in triplicate on customs Form 1319 and delivered to the Commissioner of Customs directly or through the collector of customs at the home port so designated, or through the collector of customs at the port at which the Secretary of Commerce intends to document the vessel.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

§ 3.67 Coastwise permit.

Before an enrollment and license or license may be issued under the act of August 9, 1954, there shall be filed with the collector at the port at which the document is to issue a valid unexpired permit in duplicate issued by the Secretary of Commerce under authority of section 3(c) of the act of August 9, 1954, authorizing the vessel to engage in the coastwise trade.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

§ 3.68 Marking of official number and net tonnage.

The official number and the net tonnage of every vessel documented under authority of the act of August 9, 1954, shall be marked upon the main beam. Such marking shall not, however, be required prior to the issue of a document to the vessel.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

§ 3.69 Home port; change of.

If the Secretary of Commerce desires to change the home port of a vessel documented under the act of August 9, 1954, application shall be made for the approval of the new home port in the manner prescribed in § 3.66.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

§ 3.70 Master's oath for enrollment and license.[42]

(a) Prior to the granting or renewing of the enrollment and license or license of any vessel under the act of August 9, 1954, the master shall swear that such license shall not be used for any other vessel or for any other employment than the coasting trade, or in any manner whereby the revenue of the United States may be defrauded.

(b) This oath may be taken before any officer authorized by law to administer oaths generally and may be mailed to the collector together with the enrollment and license or license, whereupon action shall be taken as if the oath had been administered by the collector.

(Sec. 3, 68 Stat. 675, 50 U.S.C. 198)

§ 3.71 Change of master.

When the master of any vessel documented under the act of August 9, 1954, is changed, the new master shall report the change to the collector at the port where the change takes place or where the vessel shall first arrive after the change, and shall produce to the collector the vessel's document and make oath that he is the new master of the vessel. The collector shall then endorse upon the document the name of the new master.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

§ 3.72 Issue, record, and surrender of documents.

(a) The provisions of §§ 3.22 (a) and (b) and 3.26 shall apply with respect to documents issued under the act of August 9, 1954.

(b) No enrollment and license or license shall be issued for a longer period than is authorized by the permit referred to in § 3.67.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

[42] No master's oath is required for the issuance of a register under the act of August 9, 1954.

§ 3.73 Renewal of document.

A document granted to any vessel under the act of August 9, 1954, shall be presented to the collector of the port at which the vessel may be at the time of its expiration within 3 days after that time, or if the vessel be at sea at that time, within 3 days after her first arrival at a port of the United States. Such a document may be renewed by the collector of customs upon the request of the master or the Secretary of Commerce if at the time of such request the documentation of the vessel is not prohibited by the act of August 9, 1954, by any order of the Commissioner of Customs issued under authority of that act requiring surrender of the vessel's document, or by any provision of the regulations in this part.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

§ 3.74 Exchange of documents.

(a) Any vessel enrolled and licensed or licensed under the act of August 9, 1954, may be registered.

(b) Any vessel registered under the act of August 9, 1954, may be enrolled and licensed or licensed for the coasting trade if a permit in duplicate issued by the Secretary of Commerce under section 3 (c) of the act of August 9, 1954, authorizing a vessel to engage in the coastwise trade is filed with the collector of customs.

(Sec. 3, 68 Stat. 675; 50 U.S.C. 198)

REGISTRATION OF PRIVATE CODE SIGNALS, HOUSE FLAGS, AND FUNNEL MARKS

§ 3.80 Application for registration of rockets, lights, or other similar code signals, house flags, or funnel marks.

(a) Application for the registration of private code signals by rockets, lights, or other similar means shall be submitted in duplicate through the office of a collector of customs to the Commissioner of Customs by the owner of the vessel or vessels by which they are to be used. The application shall describe in detail the signals which it is desired to use and shall state the purpose for which they will be used.

(b) Application for the registration of a house flag or funnel mark, or both, shall be submitted in duplicate through the office of a collector of customs to the Commissioner of Customs by the owner of the vessel or vessels on which they are to be used. The application for registration of a house flag shall describe such flag in detail, giving the colors, shape, and proportionate dimensions of the fly, field, union, or canton, and any insignia, markings, or stripes thereon in relation to the length of the hoist. Funnel marks shall be described in detail giving the colors to be used, the position of any insignia, markings, or stripes with relation to the top or collar of the funnel, the size of such insignia, markings, or stripes in relation to the diameter of the funnel, and the color of the remainder of the funnel. In addition there shall be submitted three replica drawings of the house flag or funnel, or both, drawn to scale, in the colors to be used, in ink, watercolor, oil pigments, or other permanent colors, and not exceeding 6 by 4 inches in size.

(Sec. 7, 35 Stat. 426, as amended; 46 U. S. C. 49)

§ 3.81 Registration of rockets, lights, or other similar signals, house flags, or funnel marks.

(a) Except as stated in paragraph (b) of this section, upon the filing of an application duly executed in accordance with § 3.80, the Commissioner of Customs will register private code signals by rockets, lights, or other similar means, house flags, and funnel marks, and will cause a description of such signals, flags, or funnel marks to be filed with the Division of the Federal Register, together with one replica drawing of the house flag or funnel mark, or both.

(b) The Commissioner will refuse to register any signals which in his opinion cannot easily be distinguished from signals of distress, signals for pilots, or signals prescribed by laws for preventing collisions. The Commissioner will also refuse to register any signal, flag, or funnel mark which is identical or nearly identical with one previously registered.

(c) Applicants will be notified of the action of the Commissioner through the office of the collector transmitting the application.

(Sec. 7, 35 Stat. 426, as amended; 46 U.S.C. 49)

§ 3.82 Fee for registering a house flag or funnel mark, or both.

A fee of $35, designated as fee number 11 in § 4.98 of this chapter, shall be paid upon the registration of a house

flag or funnel mark, or both, and each

I, the affiant named above, swear that the

(Sec. 3, 68 Stat. 676; 50 U.S.C. 198)

flag or funnel mark, or both, and each application for such registration filed with a collector of customs shall be accompanied by a remittance in that amount.

(Sec. 7, 35 Stat. 426, as amended, sec. 501, 65 Stat. 290; 46 U.S.C. 49, 5 U.S.C. 140)

APPENDIX

NOTE: The substance of customs Forms 1260, 1262, and 1263 prescribed in §§ 3.18, 3.19, 3.21, and 3.21a is reproduced below. Until such time as printed copies of such forms are available, typewritten or other reproduced copies may be used.

Customs Form 1260

TREASURY DEPARTMENT
BUREAU OF CUSTOMS

OATH ON LICENSE OR ENROLLMENT AND LICENSE, FOR OPERATION OF UNDOCUMENTED VESSEL, OR FOR QUALIFICATON OF CORPORATION AS A CITIZEN OF THE UNITED STATES UNDER THE ACT OF SEPTEMBER 2, 1958 (46 U.S.C. 883–1)

Vessel: [1]
Rig _____
(Scow, barge, oil screw, etc.)
Name _____
Official No.[2] _____
Home Port [3] _____
Year of build _____
Place of build _____
Service _____
(Freight, towing, etc.)
Gross [2] _____
Net [2] _____
Corporation:
Length _____
Horsepower _____
Name _____
Address [3] _____
State where incorporated _____
Affiant:
Name _____
Address _____
Company _____
Title or capacity [4] _____

I, the affiant named above, swear that the information which I have given, including that respecting the vessel and the corporation, is, to the best of my knowledge and belief, true, complete, and correct; that the corporation named is the sole owner of the vessel named and described above;

That no subject or citizen of any foreign prince or state, is directly or indirectly, by way of trust, confidence, or otherwise, interested in the vessel, or in the profits or issues thereof; [5]

That a majority of the officers and directors of such corporation are citizens of the United States, as shown by the attached listing incorporated in and made a part of this oath which truly and correctly names all such officers and directors, giving the home address and citizenship of each; that not less than 90 percent of the employees of such corporation are residents of the United States; that such corporation is engaged primarily in a manufacturing or mineral industry in the United States or in a Territory, District, or possession thereof; that the aggregate book value of the vessels owned by such corporation does not exceed 10 percent of the aggregate book value of the assets of such corporation; that such corporation purchases or produces in the United States, its Territories, or possessions not less than 75 percent of the raw materials used or sold in its operations; [6]

That all equipments or any part thereof, including boats, purchased for, or the repair parts or materials to be used, or the expenses of repairs made in any foreign country upon said vessel within the year immediately preceding the date of this application, have been duly reported and accounted for under the provisions of sections 257 and 258, title 19, and section 272, title 46, United States Code, and the duties thereon have been duly paid.

[7] _____

Subscribed and sworn to before me on the day and year shown.

_____
(Notary Public or Deputy Collector of Customs)

Date _____

* * * * *

[1] The portion of the form requiring vessel identification shall be struck out when the affiant's oath is filed merely to qualify as a citizen under the Act and not as an owner and operator.

[2] Do not complete this blank in the case of an undocumented vessel.

[3] Show address where vessel business of owner or operator is conducted; when corporation is qualifying under Act other than as owner or operator of vessel, show place of principal business.

[4] Show the capacity in which the affiant is acting for the owning corporation, as "President," "Secretary," "Specially authorized officer," or "Agent" as the case may be.

[5] "Interest" as used herein does not refer to the ownership of stock of the corporation owning the vessel or to control of the corporation by way of voting or other direct or indirect means but rather refers to ownership of the vessel itself. Strike out this clause in the case of a licensed vessel of less than 20 net tons.

[6] Attach the required list of the names of all officers and directors of the corporation, giving the home address and citizenship of each.

[7] The officer or agent of the corporation subscribing to this oath, if other than the president or secretary, shall present a written instrument attested by the corporate seal, authorizing him to act in this behalf.

MASTER'S OATH ON REGISTRY, LICENSE, OR ENROLLMENT AND LICENSE

I, _____,
_____
(Street and No., city and State)
master of the _____,
(Rig) (Name of vessel)
Official No. _____ swear that I am a citizen of the United States, having been born in _____
(City)
_____
(State or country)
on _____,[8] ____,
and naturalized before the [8] _____
(Name of court)
for _____
(District, county, or State)
on _____,[8] ____, having been issued Naturalization Certificate No. _____; and I also swear that the license granted to the said vessel shall not be used for any other vessel or for any other employment than the coasting trade or in any trade or business whereby the revenue of the United States may be defrauded.

_____
(Master)

Subscribed and sworn to before me this _____ day of _____, 19___.

_____
(Deputy Collector of Customs)

Customs Form 1262

TREASURY DEPARTMENT
BUREAU OF CUSTOMS

CERTIFICATE OF COMPLIANCE WITH THE PROVISIONS OF THE ACT OF SEPTEMBER 2, 1958 (46 U.S.C. 883–1)

Port or Place _____
Date _____
Name of vessel _____ Rig _____
Name of corporation _____
Address _____
State of incorporation _____

The corporation named and identified above has on this date complied with the provisions of § 3.21, Customs Regulations, by filing the corporate certificate under oath required under the Act of September 2, 1958 (46 U.S.C. 883–1), and is hereby authorized to operate the undocumented vessel named herein, if any, in the coastwise trade subject to the limitations of the Act. This certificate and any authorization granted hereunder expire three years from the date shown above unless there first occurs a change in corporate status requiring a report under § 3.21 cited above.

(Signature) _____
(Title) _____

* * * * *

[8] Strike out portion relating to naturalization if native-born citizen.

OATH OF PARENT OR SUBSIDIARY CORPORATION ACT OF SEPTEMBER 2, 1958 (46 U.S.C. 883–1)

Port _____
Date _____
Individual affiant's name _____
Address _____
Capacity or title _____
Corporate name (parent) [1] (subsidiary) _____
Address _____
State of incorporation of parent or subsidiary _____
Name of associated corporation _____
Address _____
State of incorporation of associated corporation _____

I, the affiant named above, swear that the corporation first named herein is the (parent) [1] (subsidiary) [2] of the associated corporation named; that I am the duly authorized officer or agent of such corporation; that the associated corporation named has previously established that it is a citizen of the United States within the meaning of the Act of September 2, 1958 (46 U.S.C. 883–1), having filed a certificate under oath to that effect with the collector of customs concerned; that a majority of the officers and directors of the said parent or subsidiary corporation are citizens of the United States, as shown by the attached listing incorporated in and made a part of this oath which truly and correctly names all such officers and directors, giving the home address and citizenship of each; that not less than 90 percent of the employees of such parent or subsidiary corporation are residents of the United States; that such parent or subsidiary corporation is engaged primarily in a manufacturing or

[1] The term "parent corporation" for the purposes of this oath means a corporation incorporated under the laws of the United States, or any State, Territory, District, or possession thereof, which controls, directly or indirectly, at least 50 percent of the voting stock of a corporation which is a citizen of the United States as defined in section 3.19 (a) (4) of the Customs Regulations and the Act of September 2, 1958 (46 U.S.C. 883–1). Strike out the inapplicable term.

[2] The term "subsidiary corporation" for the purposes of this oath means a corporation incorporated under the laws of the United States, or any State, Territory, District, or possession thereof, not less than 50 percent of the voting stock of which is controlled, directly or indirectly, by a corporation which is a citizen of the United States as defined in § 3.19(a)(4) of the Customs Regulations and the Act of September 2, 1958 (46 U.S.C. 883–1) or by a parent corporation of any such corporation. Strike out the inapplicable term.

mineral industry in the United States or in a Territory, District, or possession thereof; that the aggregate book value of the vessels owned by such parent or subsidiary corporation does not exceed 10 percent of the aggregate book value of the assets of such corporation; and that such parent or subsidiary corporation purchases or produces in the United States, its Territories, or possessions not less than 75 percent of the raw materials used or sold in its operations.

Signed _____

Subscribed and sworn to before me on the day and year shown.

_____
(Notary Public or Deputy Collector of Customs)

Date _____

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

ARRIVAL AND ENTRY OF VESSELS

Sec.
4.1 Boarding of vessels; cutter and dock passes.
4.2 Reports of arrival of vessels.
4.3 Vessels required to enter.
4.4 Canal Zone; arrival and entry from.
4.5 Government vessels.
4.6 Departure or unlading before report or entry.
4.7 Inward foreign manifest; production on demand; contents and form.
4.8 Preliminary entry.
4.9 Formal entry.
4.10 Request for overtime services.
4.11 Sealing of stores.
4.12 Correction of manifest.
4.13 Alcoholic liquors on vessels of not over 500 tons.
4.14 Equipment and repairs to American vessels.
4.15 Fishing vessels touching and trading at foreign places.
4.16 Entry and clearance on board vessels.
4.17 Vessels from discriminating countries.

TONNAGE TAX AND LIGHT MONEY

4.20 Tonnage taxes.
4.21 Exemptions from tonnage taxes.
4.22 Exemptions from special tonnage taxes.
4.23 Certificate of payment.
4.24 Application for refund of tonnage tax.

LANDING AND DELIVERY OF CARGO

4.30 Permits and special licenses for unlading and lading.
4.31 Unlading or transshipment due to casualty.
4.32 Vessels in distress; landing of cargo.
4.33 Diversion of cargo.
4.34 Prematurely discharged, overcarried, and undelivered cargo.
4.35 Unlading outside port of entry.
4.36 Delayed discharge of cargo.
4.37 Lay order; general order.
4.38 Release of cargo.
4.39 Stores and equipment of vessels and crews' effects; unlading or lading and retention on board.
4.40 Equipment, etc., from wrecked or dismantled vessels.
4.41 Cargo of wrecked vessel.

PASSENGERS ON VESSELS

4.50 Passenger lists.
4.51 Examination of vessels with steerage passengers.
4.52 Deaths of passengers.

FOREIGN CLEARANCES

4.60 Vessels required to clear.
4.61 Requirements for clearance.
4.62 Accounting for inward cargo.
4.63 Outward foreign manifest; shippers' export declarations.
4.64 Documentation.
4.65 Verification of nationality and tonnage.
4.66 Verification of inspection.
4.67 Closed ports or places.
4.68 Crew; passengers.
4.69 Shipping articles and enforcement of Seamen's Act.
4.70 Pratique.
4.71 Inspection of vessels carrying livestock.
4.72 Inspection of meat, meat-food products, and inedible fats.
4.73 Neutrality; exportation of arms and munitions.
4.74 Transportation orders.
4.75 Incomplete manifest; incomplete export declarations; bond.

COASTWISE PROCEDURE

4.80 Vessels entitled to engage in coastwise trade.
4.81 Reports of arrivals and departures in coastwise trade.
4.82 Touching at foreign port while in coastwise trade.
4.83 Trade between United States ports on the Great Lakes and other ports of the United States.
4.84 Trade with noncontiguous territory.
4.85 Vessels with residue cargo for domestic ports.
4.86 Intercoastal residue-cargo procedure; optional ports.
4.87 Vessels proceeding foreign via domestic ports.
4.88 Vessels with residue cargo for foreign ports.
4.89 Vessels in foreign trade proceeding via domestic ports and touching at intermediate foreign ports.
4.90 Simultaneous vessel transactions.
4.91 Diversion of vessel; transshipment of cargo.
4.92 Towing.

GENERAL

4.95 Records of entry and clearance of vessels.
4.96 Fisheries.
4.97 Salvage vessels.
4.98 Navigation fees.

AUTHORITY: §§ 4.1 to 4.98 issued under R. S. 161, 251, secs. 2, 3, 23 Stat. 118, as amended, 119, as amended, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, 46 U.S.C. 2, 3 General Hdnote 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

NOTE 1: By T.D. 528886, 16 F.R. 12763, Dec. 20, 1951, the Commissioner of Customs waived compliance with the provisions of the navigation laws administered by the Bureau of Customs to the extent necessary to permit the operation of vessels requisitioned by the United States for emergency evacuation.

NOTE 2: By Treasury Decision 53449, 19 F.R. 1420, Mar. 13, 1954, the Commissioner

customs treatment comes within the

of Customs waived compliance with the navigation laws relating to clearances of vessels to the extent necessary to permit:

(1) The clearance for an unnamed destination of any vessel owned by, Government-allocated to, or chartered by the Military Sea Transportation Service of the Department of Defense, other than those used on bareboat term (shipping contract or Government bill-of-lading) arrangements, which is certified by the Commander of the Military Sea Transportation Service or his duly authorized representative as (a) in ballast or laden only with Department of Defense cargo, or (b) having on board passengers, each of whom is either a member of the Armed Forces or a civilian noncombatant employed by, serving with, or accompanying the Armed Forces of the United States;

(2) The clearance of any vessel with Department of Defense cargo on the basis of a manifest which describes that cargo only as "---------- of Department of Defense cargo."
(Approximate quantity)

NOTE 3: By Treasury Decision 53892, 20 F. R. 6792, Sept. 15, 1955, the Commissioner of Customs waived compliance with sections 289, 292, 316, and 883, title 46, United States Code, to the extent necessary to permit any dredge, tug, scow, barge, or other vessel of Canadian registry or flag, whether or not Canadian-built, to be employed in dredging, towing, the transportation of merchandise or passengers, or any combination of such activities, in spoil disposal operations or channel excavations for power purposes and in connection with the construction of the Iroquois Control Dam as a part of the St. Lawrence Power Project in territorial waters of the United States within the general areas (1) between points opposite Prescott, Ontario, and Doran Island and (2) between points opposite the powerhouse structure and the eastern end of Cornwall Island.

NOTE 4: By Treasury Decision 54230, 21 F. R. 8355, Nov. 1, 1956, the Commissioner of Customs waived compliance with sections 289, 292, 316, and 883, title 46, United States Code, to the extent necessary to permit any dredge, tug, scow, barge, or other vessel of Canadian registry or flag, whether or not Canadian-built, to be employed in dredging, towing, the transportation of merchandise or passengers, or any combination of such activities, in connection with the construction of the proposed high level Cornwall South Channel Bridge of the St. Lawrence Seaway Navigation Project in the general area of Massena and Rooseveltown, New York.

ARRIVAL AND ENTRY OF VESSELS

§ 4.1 Boarding of vessels; cutter and dock passes.

(a) When any vessel which might have on board any article subject to customs treatment comes within the limits of any port of entry or within customs waters, customs officers may board the vessel to inspect its manifest and other documents and papers and to examine, inspect, and search the vessel and the persons and articles on board.[1]

(b) Every vessel arriving within a customs collection district directly from a point outside the customs territory of the United States shall be boarded and shall be subject to such supervision while in port as the collector deems necessary. When he deems it desirable, the collector may detail customs officers to remain on board a vessel to secure the enforcement of this part. Except as provided in paragraph (a) of this section, boarding of a vessel arriving from another port in the United States with residue cargo, passengers, or baggage on board shall not be required unless preliminary entry is requested.

(c) No person, with or without the consent of the master, except a pilot, officer of the customs or Coast Guard, immigration officer, health officer, agent of the vessel, or consular officer, shall go on board or, except for the purpose of reporting the arrival of the vessel as required by law, leave any vessel arriving from outside the customs territory of the United States without permission of the collector of customs or the customs officer in charge until such vessel has been properly inspected by the customs and brought to the dock or anchorage at which cargo is to be laden or unladen and until all passengers and their baggage have been landed from the vessel;* nor shall the master of any vessel authorize the boarding or leaving of the vessel by any person in violation of this paragraph. Every person permitted to go on board shall be subject to customs and quarantine regulations.

(d) A collector of customs, in his discretion may issue a cutter pass on customs Form 3093 to permit the holder to board an incoming vessel after it has been inspected by the quarantine authorities and taken in charge by an officer of the customs, as follows: (1) To persons on official business; (2) to news reporters, newspaper photographers, photographers of established motion-picture companies, and broadcasters of established radio broadcasting companies; and (3) in cases of special exigency in which the collector is satisfied as to the urgent need for the boarding and that its allowance will not result in undue interference with the performance of official business.

(e) No person in charge of a tugboat, rowboat, or other vessel shall bring such conveyance alongside an incoming vessel heretofore described and put on board thereof any person, except as authorized by law or regulations.

(f) Upon application on customs Form 3137 or in other suitable manner, a collector may, in his discretion, issue a pass on customs Form 3095 to go on the dock to meet persons arriving from abroad.

(g) Term cutter and dock passes, for a period of not to exceed one year, may be issued in the discretion of the collector, to persons on official business and to duly accredited news reporters and newspaper photographers. Passes are not transferrable and shall be forfeited upon presentation by others than those to whom issued.

(Sec. 9, 22 Stat. 189, as amended, secs. 1–3, 31 Stat. 58, as amended; 46 U.S.C. 158, 163)

§ 4.2 Reports of arrival of vessels.

(a) The report of arrival required by section 433, Tariff Act of 1930,[3] shall be

---

[1] "Any officer of the customs may at any time go on board of any vessel or vehicle at any place in the United States or within the customs waters * * * and examine the manifest and other documents and papers and examine, inspect, and search the vessel or vehicle and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel or vehicle, and use all necessary force to compel compliance." (19 U. S. C. 1581 (a))

"If the master of any vessel shall obstruct or hinder, or shall intentionally cause any obstruction or hindrance to any officer in lawfully going on board such vessel, for the purpose of carrying into effect any of the revenue or navigation laws of the United States, he shall for every such offense be liable to a penalty of not more than $2,000 nor less than $500." (R. S. 3068, sec. 307, 49 Stat. 528)

[2] "It shall not be lawful for the master of any such steamship or other vessel,* not in distress, after the arrival of the vessel within any collection district of the United States, to allow any person or persons, except a pilot, officer of the customs, or health officer, agents of the vessel, and consuls, to come on board of the vessel, or to leave the vessel, until the vessel has been taken in charge by an officer of the customs, nor, after charge so taken, without leave of such officer, until all the passengers, with their baggage, have been duly landed from the vessel. * * *" (46 U. S. C. 158)

"The Secretary of the Treasury is authorized and directed to prescribe from time to time and enforce regulations governing the boarding of vessels arriving at the seaports of the United States, before such vessels have been properly inspected and placed in security, and for that purpose to employ any of the officers of that department. Each person violating such regulations shall be subject to a penalty of not more than $100 or imprisonment not to exceed six months, or both, in the discretion of the court. This section shall be construed as supplementary to section 158 and section 708 of this title." (46 U. S. C. 163. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

"Whoever, not being in the United States service, and not being duly authorized by law for the purpose, goes on board any vessel about to arrive at the place of her destination, before her actual arrival, and before she has been completely moored, shall be fined not more than $200 or imprisoned not more than six months, or both.

"The master of such vessel may take any such person into custody, and deliver him up forthwith to any law enforcement officer, to be by him taken before any committing magistrate, to be dealt with according to law." (18 U. S. C. 2279)

"If, within twenty-four hours after the arrival of any vessel at any port in the United States, any person, then being on board such vessel, solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such vessel any effects of any seaman, except under his personal direction, and with the permission of the master, he shall, for every such offense, be punishable by a fine of not more than $50, or by imprisonment for not more than three months. This section shall apply to vessels of the United States engaged in the foreign trade and to foreign vessels." (46 U.S.C. 709)

*A vessel from a noncontiguous foreign place carrying steerage passengers.

[3] "Within twenty-four hours after the arrival of any vessel from a foreign port or place, or of a foreign vessel from a domestic port, or of a vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made, at any port or place within the United States at which such vessel shall come to, the master shall, unless otherwise provided by law, report the arrival of the vessel at the nearest customhouse, under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, sec. 433; 19 U.S.C. 1433)

"* * * For the purposes of sections 432, 433, 434, 448, 585, and 586 of this Act, any vessel which has visited any hovering vessel

made by any means of communication to the collector of customs or to a customs officer assigned to board the vessel.

(b) For the purposes of this part, the time of arrival of a vessel shall be that time when she first comes to rest, whether at anchor or at a dock, in any harbor within the customs territory of the United States.

(c) In the case of a vessel described in section 441 (3), Tariff Act of 1930, as amended,[4] the report of articles subject to entry shall be made in accordance with the provisions of § 10.19 of this chapter to the customs officer assigned to board the vessel. (See § 4.1 (c).)

(d) In the case of vessels described in section 441 (4), Tariff Act of 1930, as amended,[4] the report may be filed by either the master, owner, or agent, and shall be in the form and give the information required by that statute, except that the report need not be under oath. A derelict vessel shall be considered one in distress and any person bringing it into port may report its arrival.

(e) The report of baggage and merchandise on a vessel within the purview of section 441 (2), Tariff Act of 1930, as amended,[4] shall be made as provided for in that section and shall be in addition to the required report of arrival.

(Secs. 433, 441, 486, 46 Stat. 711, 712, as amended, 725, as amended; 19 U.S.C. 1433, 1441, 1486)

§ 4.3 Vessels required to enter.

(a) Except as specified in section 441, Tariff Act of 1930,[5] as amended,[6] R. S. 2792,[7] R. S. 2793, as amended,[8] or as otherwise specified in this part,[8a] every American vessel arriving in the United States from a foreign port or place and every foreign vessel[9] arriving at a port in the United States from another such port or from a foreign port or place shall make entry[10] at the customhouse within 48 hours after arrival.[11]

(b) For the purposes of this part the time of departure of a vessel shall be that time when she gets under way on her outward voyage and proceeds on the voyage without thereafter coming to rest in the harbor from which she is going.

(R.S. 2793, as amended, secs. 434, 435, 441, 46 Stat. 711, as amended, 712, as amended; 19 U.S.C. 288, 1434, 1435, 1441, 46 U.S.C. 111)

§ 4.4 Canal Zone; arrival and entry from.

For the purposes of the laws relating to reports of arrival and entry of vessels, the Canal Zone shall be regarded as foreign territory. Vessels which merely transit the Canal Zone without transacting any business there shall not be required to report their arrival or to enter because of such transit.

§ 4.5 Government vessels.

(a) No report of arrival or entry shall be required for any vessel owned by, or under the complete control and management of, the United States or any of its agencies, if such vessel (1) is manned wholly by members of the armed forces of the United States or by personnel in the civil service of the United States and (2) is transporting only property of the United States or passengers traveling on official business of the United States, or is in ballast. However, the master or commander of each such vessel arriving from abroad shall file a declaration as provided for in § 10.24 of this chapter and, if any cargo or passengers are on board, a manifest, in duplicate, which shall include any cargo and a list of any

---

shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place." (Tariff Act of 1930, sec. 401 (n), as amended; 19 U. S. C. 1432a)

"The term 'hovering vessel' means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue * * *." (Tariff Act of 1930, sec. 401 (n), as amended; 19 U. S. C. 1401 (n))

"Every master who fails to make the report or entry provided for in section 433, 434, or 435 of this Act shall, for each offense, be liable to a fine of not more than $1,000 and, if the vessel have, or be discovered to have had, on board any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or any spirits, wines, or other alcoholic liquors, such master shall be subject to an additional fine of not more than $2,000 or to imprisonment for not more than one year, or to both such fine and imprisonment. * * *" (Tariff Act of 1930, sec. 436, as amended; 19 U. S. C. 1436)

"Report of the arrival of a vessel of less than 5 net tons in the United States from a contiguous country otherwise than by sea is not required by section 433, Tariff Act of 1930. For the reporting requirements applicable with respect to such vessels, see § 5.1 of this chapter."

[4] See footnotes 5 to § 4.3.

[5] "The following vessels shall not be required to make entry at the customhouse:

"(1) Vessels of war and public vessels employed for the conveyance of letters and dispatches and not permitted by the laws of the nations to which they belong to be employed in the transportation of passengers or merchandise in trade;

"(2) Passenger vessels making three trips or oftener a week between a port of the United States and a foreign port, or vessels used exclusively as ferryboats, carrying passengers, baggage, or merchandise: *Provided*, That the master of any such vessel shall be required to report such baggage and merchandise to the collector within twenty-four hours after arrival;

"(3) Licensed yachts or undocumented American pleasure vessels not engaged in trade nor in any way violating the customs or navigation laws of the United States and not having visited any hovering vessel: *Provided*, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the collector within twenty-four hours after arrival."

"(4) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, sea stores, or ship's stores and which shall depart within twenty-four hours after arrival without having landed or taken on board any passengers, or any merchandise other than bunker coal, bunker oil, sea stores, or ship's stores: *Provided*, That the master, owner, or agent of such vessel shall report under oath to the collector the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, sea stores, or ship's stores taken on board; and

"(5) Tugs enrolled and licensed to engage in the foreign and coasting trade in the northern, northeastern, and northwestern frontiers when towing vessels which are required by law to enter and clear." (Tariff Act of 1930, sec. 441, as amended. 19 U. S. C. 1441)

[6] "Vessels used exclusively as ferryboats carrying passengers, baggage, and merchandise, shall not be required to enter and clear, nor shall the masters of such vessels be required to present manifests, or to pay entrance or clearance fees, or fees for receiving or certifying manifests, but they shall, upon arrival in the United States, be required to report such baggage and merchandise to the proper officer of the customs according to law." (46 U. S. C. 110)

"Any passenger vessel engaged triweekly or oftener in trade between ports of the United States and foreign ports shall be exempt from entrance and clearance fees while such service triweekly or oftener is maintained." (46 U. S. C. 112)

[7] "Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of entry and clearance fees, as if from or to foreign ports; but such vessel shall, notwithstanding, be required to enter and clear; except that when such vessels are on such voyages on the Great Lakes and touch at foreign ports for the purpose of taking on bunker fuel only, they may be exempted from entering and clearing under such rules and regulations as the Secretary of the Treasury may prescribe, notwithstanding any other provisions of law: *Provided*, That this exception shall not apply to such vessels if, while at such foreign port, they land or take on board any passengers, or any merchandise other than bunker fuel, receive orders, discharge any seaman by mutual consent, or engage any seaman to replace those discharged by mutual consent, or transact any other business save that of taking on bunker fuel." (19 U. S. C. 288)

[8a] No entry is required for a vessel of less than 5 net tons which arrives in the United States from a contiguous country otherwise than by sea. For the reporting requirements applicable with respect to such vessels, see § 5.1 of this chapter.

[9] Every undocumented vessel of 5 net tons or over owned by an alien, whether or not such alien is a resident of the United States, is a foreign vessel.

[10] "Whenever, under any provision or provisions of any statute of the United States, it is made the duty of the masters of vessels to make entry and clearance of same, it shall be lawful for such duties to be performed by any licensed deck officer or purser of such vessel; and when such duties are performed by a licensed deck officer or purser of such vessel, such acts shall have the same force and effect as if performed by masters of such vessels: *Provided*, That nothing herein contained shall relieve the master of any penalty or liability provided by any statute relating to the entry or clearance of vessels." (46 U. S. C. 91a)

"* * * Every master who presents a forged, altered, or false document or paper on making entry of a vessel as required by section 434 or 435 of this Act, knowing the same to be forged, altered or false and without revealing the fact, shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than $5,000 nor less than $50 or to imprisonment for not more than two years, or to both such fine and imprisonment." (Tariff Act of 1930, sec. 436, as amended; 19 U. S. C. 1436)

[11] See § 4.2 (b).

passengers and their baggage, specifying the number and description of the pieces of baggage belonging to each passenger. The original of each manifest required under this paragraph shall be filed with the collector within 48 hours after the arrival of the vessel. The other copy shall be made available for use by the discharging inspector at the pier.

(b) The arrival of every vessel owned or controlled and manned as described in paragraph (a) of this section but transporting other property or passengers, and every vessel so owned or controlled but not so manned, whether in ballast or transporting cargo or passengers, shall be reported in accordance with § 4.2 and the vessel shall be entered in accordance with § 4.9.

(c) Every vessel owned by, or under the complete control and management of, any foreign nation shall be exempt from or subject to the laws relating to report of arrival and entry under the same conditions as a vessel owned or controlled by the United States.

(Sec. 441(1), 46 Stat. 712; 19 U.S.C. 1441(1))

§ 4.6 Departure or unlading before report or entry.

(a) The provisions of section 585 Tariff Act of 1930, as amended,[13] apply to foreign as well as American vessels, but shall not be applied to a vessel merely passing through waters within the limits of a collection district in the ordinary course of her voyage.

(b) The "limits of any collection district" as used herein are those defined by § 1.1 of this chapter, including the marginal waters to the 3-mile limit on the seaboard and the waters to the boundary line on the northern and southern boundaries.

(Sec. 585, 46 Stat. 749, as amended; 19 U.S.C. 1585)

§ 4.7 Inward foreign manifest; production on demand; contents and form.

(a) The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest, as required by section 431, Tariff Act of 1930.[14] The manifest shall be legible and complete on customs Form 7527–A, except that a collector of customs is authorized to permit the use of customs Form 7527–B in his district, in lieu of customs Form 7527–A, to such extent as customs Form 7527–B will meet his requirements. The original and one copy of the manifest shall be ready for production on demand.[15] In addition, there shall be at least two other copies except when only one is required for local customs purposes, but a reasonable time shall be allowed by the boarding officer for the preparation of the additional copy or copies. If the manifest is in a foreign language, a translation shall be furnished with the original and with each copy.

(b) (1) The master shall deliver the original and one copy of the manifest to the boarding officer.[16] The original manifest shall list all the inward foreign cargo on board, regardless of the port of discharge, whereas the other copy is required to list only the cargo manifested for the port in question. The preceding sentence does not refer to sea or ships' stores or crews' purchases or curios.

(2) The master of a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or intended to be employed in such trade, at each port of first arrival from a foreign country shall declare on customs Form 3415 any equipment, repair part, or material purchased for the vessel, or any expense for repairs incurred, in a foreign country,[16b] within the purview of section 466, Tariff Act of 1930, as amended. If no equipment has been purchased or repairs made, a declaration to that effect shall be made on customs Form 3415. If the vessel is of more than 500 gross tons, the declaration shall include a statement that no work in the nature of a rebuilding or alteration which might give rise to a reasonable belief that the vessel may have been rebuilt within the meaning of the second proviso to section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), has been effected which has not been either previously reported or separately reported simultaneously with the filing of such declaration. The declaration shall be ready for production on demand and for inspection by the boarding officer, and shall be presented with the original manifest when formal entry of the vessel is made.

(3) The master of every American vessel of more than 500 gross tons which is altered or rebuilt, when any part of the alteration or rebuilding, including the construction of any major component of the hull or superstructure of the vessel, is effected outside the United States, its Territories (not including trust territories), or its possessions, shall upon the first entry of the vessel at a port of the United States thereafter report the facts and circumstances of the alteration or rebuilding of the vessel to the collector of customs at the port of entry. The report shall be accompanied by the papers required under § 3.28 of these regulations. If any such papers are not available at the time such report is made, they shall be produced to the collector concerned as soon thereafter as may be practicable but if they are not presented

---

[13] "If any vessel or vehicle from a foreign port or place arrives within the limits of any collection district and departs or attempts to depart, except from stress of weather or other necessity, without making a report or entry under the provisions of this chapter, or if any merchandise is unladen therefrom before such report or entry, the master of such vessel shall be liable to a penalty of $5,000, and the person in charge of such vehicle shall be liable to a penalty of $500, and any such vessel or vehicle shall be forfeited, and any officer of the customs may cause such vessel or vehicle to be arrested and brought back to the most convenient port of the United States." (Tariff Act of 1930, sec. 585, as amended, 19 U. S. C. 1585)

[14] "The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest in a form to be prescribed by the Secretary of the Treasury and signed by such master under oath as to the truth of the statements therein contained. Such manifest shall contain:

"First. The names of the ports or places at which the merchandise was taken on board and the ports of entry of the United States for which the same is destined, particularly describing the merchandise destined to each such port: *Provided*, That the master of any vessel laden exclusively with coal, sugar, salt, nitrates, hides dyewoods, wool, or other merchandise in bulk consigned to one owner and arriving at a port for orders, may destine such cargo 'for orders,' and within fifteen days thereafter, but before the unlading of any part of the cargo such manifest may be amended by the master by designating the port or ports of discharge of such cargo, and in the event of failure to amend the manifest within the time permitted such cargo must be discharged at the port at which the vessel arrived and entered.

"Second. The name, description, and build of the vessel, the true measure or tonnage thereof, the port to which such vessel belongs, and the name of the master of such vessel.

"Third. A detailed account of all merchandise on board such vessel, with the marks and numbers of each package, and the number and description of the packages according to their usual name or denomination, such as barrel, keg, hogshead, case, or bag.

"Fourth. The names of the persons to whom such packages are respectively consigned in accordance with the bills of lading issued therefor, except that when such merchandise is consigned to order the manifest shall so state.

"Fifth. The names of the several passengers aboard the vessel, stating whether cabin or steerage passengers, with their baggage, specifying the number and description of the pieces of baggage belonging to each, and a list of all baggage not accompanied by passengers.

"Sixth. An account of the sea stores and ship's stores on board of the vessel." (Tariff Act of 1930, sec. 431; 19 U. S. C. 1431)

[15] "The master of every vessel and the person in charge of every vehicle bound to a port or place in the United States shall deliver to the officer of the customs or Coast Guard who shall first demand it of him, the original and one copy of the manifest of such vessel or vehicle, and such officer shall certify on the back of the original manifest to the inspection thereof and return the same to the master or other person in charge." (Tariff Act of 1930, sec. 583; 19 U. S. C. 1583)

"Any master of any vessel and any person in charge of any vehicle bound to the United States who does not produce the manifest to the officer demanding the same shall be liable to a penalty of $500, * * *; *Provided*, That if the collector shall be satisfied that the manifest was lost or mislaid without intentional fraud, * * *, said penalties shall not be incurred. * * *" (Tariff Act of 1930, sec. 584, as amended; 19 U. S. C. 1584)

[16] "Immediately upon arrival and before entering his vessel, the master of a vessel from a foreign port or place required to make entry shall mail or deliver to such employee as the Secretary of the Treasury shall designate, a copy of the manifest, and shall on entering his vessel make affidavit that a true and correct copy was so mailed or delivered, and he shall also mail or deliver to such employee designated by the Secretary a true and correct copy of any correction of such manifest filed on entry of his vessel. Any master who fails so to mail or deliver such copy of the manifest or correction thereof shall be liable to a penalty of not more than $500." (Tariff Act of 1930, sec. 439, as amended; 19 U. S. C. 1439)

[16b] See footnote 26, § 4.14(a).

within 30 days, and if the delay is not explained to the satisfaction of the collector, appropriate penalty action shall be taken charging violations of the provisions of section 2 of the Act of July 14, 1956, as amended (46 U.S.C. 883a).[16c]

(c) The list of passengers required by the fifth subparagraph of section 431(a), Tariff Act of 1930, as amended, and the list of the crew shall be on customs and immigration Form I–418 or on a substantially similar form, except that where no steerage passengers are aboard upon arrival, the listing of the passengers may be in the form of a vessel "souvenir list," or similar list, in which the names of the passengers are listed alphabetically by class (first-class, cabin, etc.) and to which the following oath of the master is attached:

MASTER'S OATH TO THE PASSENGER LIST

I, _____, Master of the _____;
(Nationality, name and official number of carrier)

do solemnly swear that the names of all passengers taken on board at _____, _____;
(Name of ports of embarkation)

are contained in the attached list(s) showing _____ passengers, none of whom are
(Number)

steerage passengers (46 U.S.C. 151–163); that concerning each, the information recorded is correct, and that customs baggage declarations on customs Form 6063, 6063–B or 6064 or on DD Form 1252, have been or will be simultaneously herewith filed as required by law and regulation with the proper customs officer.

_____
(Master)

Subscribed and sworn to before me at _____ on _____.

The passenger and crew list shall be presented in duplicate as a part of the manifest to the customs officer who boards the vessel. No such passenger or crew list, nor a copy of either, shall be required in the case of a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes, or their connecting or tributary waters.[16a]

(d) The manifest shall separately specify articles to be retained aboard at sea or ship's stores, as required by section 432, Tariff Act of 1930.[17] Less than whole packages of sea or ship's stores may be described as "sundry small and broken stores."

(e) All articles on board the vessel acquired abroad by officers and members of the crew, except such articles as are exclusively for use on the voyage or which have been duly cleared through customs in the United States, shall be specified in the list of sea stores in the following form:

Name of officer or member of crew	Crew declaration No.	Description of articles	Cost or value

Upon the delivery to customs of this list of articles acquired abroad by officers and members of the crew, the master of the vessel shall have shown thereon opposite the name of each officer and crew member who intends to land articles in the United States for which written declaration and entry are required (see § 23.4(a) of this chapter) the number of the declaration and entry on customs Form 5123 which the officer or crew member shall have prepared and signed (see § 10.22 (a) and (b) of this chapter).

(Secs. 431, 439, 465, 581(a), 583, 46 Stat. 710, as amended, 712, as amended, 718, 747, as amended, 748, as amended, secs. 2, 3, 70 Stat. 544; 19 U.S.C. 1431, 1439, 1465, 1581(a), 1583, 46 U.S.C. 883a, 883b)

§ 4.8 Preliminary entry.

If it is desired that any vessel having on board inward foreign cargo, passengers, or baggage shall discharge or take on cargo, passengers, or baggage before the vessel has been entered, preliminary entry shall be made by compliance with § 4.30 and execution by the master on customs Form 3255 of a certificate in lieu of the oath or affirmation prescribed by section 448(a), Tariff Act of 1930.[18]

§ 4.9 Formal entry.

(a) The formal entry of a vessel of the United States shall be in accordance with section 434, Tariff Act of 1930.[19] The required oath shall be on customs Form 3251. Such entry of a foreign vessel shall be in accordance with section 435, Tariff Act of 1930.[20]

(b) Upon the entry of an American vessel, the master shall present to the collector, in addition to the passenger and crew lists required under § 4.7 (c), the certified copy of the crew list on customs and immigration Form I–418 obtained, in accordance with the provisions of § 4.68 (a), upon the last previous clearance outward from the United States. The master shall deposit his register or frontier enrollment with the collector before or at the time of entry, except that the register may be returned upon request to the master in the case of a vessel of less than 100 gross tons engaged in taking out fishing parties. The collector may give the master a certificate of deposit on customs Form 1370. If the collector gives the master such a certificate, it shall be exchanged for the vessel's document upon clearance of the vessel, or upon its departure if clearance is not required.

(c) The master of any foreign vessel shall exhibit his register to the collector

---

[16c] * * * Sec. 2. If any vessel of more than five hundred gross tons documented under the laws of the United States, or last documented under such laws, is rebuilt, and any part of the rebuilding, including the construction of major components of the hull and superstructure of the vessel, is not effected within the United States, its Territories (not including trust territories), or its possessions, a report of the circumstances of such rebuilding shall be made to the Secretary of the Treasury, upon the first arrival of the vessel thereafter at a port within the customs territory of the United States, if rebuilt outside the United States, its Territories (not including trust territories), or its possessions, or, in any other case, upon completion of the rebuilding, in accordance with such regulations as the Secretary may prescribe. If the required report is not made, the vessel, together with its tackle, apparel, equipment, and furniture, shall be forfeited, and the master and owner shall each be liable to a penalty of $200. Any penalty or forfeiture incurred under this Act may be remitted or mitigated by the Secretary under the provisions of section 5294 of the Revised Statutes of the United States, as amended (46 U.S.C. 7). (Sec. 2, Act of July 14, 1956, as amended (46 U.S.C. 883a))

[16a] "Notwithstanding any provision of law to the contrary, no collector of customs shall require a master or owner of a vessel arriving, otherwise than by sea, at a port or place in the United States on the Great Lakes, or their connecting or tributary waters, from a port or place in the Dominion of Canada to furnish a list of passengers on board such vessel." (60 Stat. 882)

[17] "The manifest of any vessel arriving from a foreign port or place shall separately specify the articles to be retained on board of such vessel as sea stores, ship's stores, or bunker coal, or bunker oil, and if any other or greater quantity of sea stores, ship's stores, bunker coal, or bunker oil is found on board of any such vessel than is specified in the manifest, or if any such articles, whether shown on the manifest or not are landed without a permit therefor issued by the collector, all such articles omitted from the manifest or landed without a permit shall be subject to forfeiture, and the master shall be liable to a penalty equal to the value of the articles." (Tariff Act of 1930, sec. 432; 19 U. S. C. 1432)

[18] "* * * the master may make a preliminary entry of a vessel by making oath or affirmation to the truth of the statements contained in the vessel's manifest and delivering the manifest to the customs officer who boards such vessel, but the making of such preliminary entry shall not excuse the master from making formal entry of his vessel at the customhouse, as provided by this Act. * * *" (Tariff Act of 1930, sec. 448 (a); 19 U.S.C. 1448(a))

[19] "Except as otherwise provided by law, and under such regulations as the Secretary of the Treasury may prescribe, the master of a vessel of the United States arriving in the United States from a foreign port or place shall, within forty-eight hours after its arrival within the limits of any customs collection district, make formal entry of the vessel at the customhouse by producing and depositing with the collector the vessel's crew list, its register, or document in lieu thereof, the clearance and bills of health issued to the vessel at the foreign port or ports from which it arrived, together with the original and one copy of the manifest, and shall make oath that the ownership of the vessel is as indicated in the register, or document in lieu thereof, and that the manifest was made out in accordance with section 431 of this Act." (Tariff Act of 1930, sec. 434, as amended; 19 U. S. C. 1434)

[20] "The master of any foreign vessel arriving within the limits of any customs collection district shall, within forty-eight hours thereafter, make entry at the customhouse in the same manner as is required for the entry of a vessel of the United States, except that a list of the crew need not be delivered, and that instead of depositing the register or document in lieu thereof such master may produce a certificate by the consul of the nation to which such vessel belongs that said documents have been deposited with him: *Provided*, That such exception shall not apply to the vessels of foreign nations in whose ports American consular officers are not permitted to have the custody and possession of the register and other papers of vessels entering the ports of such nations." (Tariff Act of 1930, sec. 435; 19 U. S. C. 1435)

vessel by its passengers and crew. (See

absorption of moisture, temperature, faulty weighing at the port of lading,

on or before the entry of the vessel. After the net tonnage has been noted, the master may deliver it to the consul of the nation to which such vessel belongs, in which event he shall file with the collector the certificate required by section 435 of the tariff act. If not delivered to the consul, the register shall be deposited in the customhouse.[21]

(d) The master of every vessel required to make entry shall present on entry the pratique required by the pertinent regulations of the United States Public Health Service (42 CFR Chapter I) and shall pay all required fees and penalties incurred.

(e) The master, licensed deck officer, or purser may appear in person at the customhouse to enter the vessel or the required oaths, related documents, and other papers properly executed by the master or other proper officer may be delivered at the customhouse by the vessel agent or other personal representative of the master.

(R.S. 4576, as amended, secs. 434, 435, 46 Stat. 711, as amended, sec. 366, 58 Stat. 705; 19 U.S.C. 1434, 1435, 42 U.S.C. 269, 46 U.S.C. 677)

§ 4.10 Request for overtime services.

Request for overtime services in connection with the entry or clearance of a vessel, including the boarding of a vessel for the purpose of preliminary entry,[22] if made at the time the application for a permit to unlade or lade is filed, may be on customs Form 3171 in the space provided therefor, otherwise the request for overtime services shall be on customs Form 3853. Such request for overtime services must specify the nature of the services desired and the exact times when they will be needed, unless arrangements are made locally so that the proper customs officer will be seasonably notified during official hours in advance of the rendering of the services as to the nature of services desired and the exact times that they will be needed. Such request shall not be approved unless the required cash deposit or bond on customs Form 7567 or 7569 shall have been received.

(Secs. 448, 451, 46 Stat. 714, 715, as amended; 19 U.S.C. 1448, 1451)

§ 4.11 Sealing of stores.

Upon the arrival of a vessel from a foreign port, or a vessel engaged in the foreign trade from a domestic port, sea stores and ship's stores not required for immediate use or consumption on board while the vessel is in port and articles acquired abroad by officers and members of the crew, for which no permit to land has been issued, shall be placed under seal, unless the customs officer is of the opinion that the circumstances do not require such action. Customs inspectors in charge of the vessel, from time to time, as in their judgment the necessity of the case requires, may issue stores from under seal for consumption on board the vessel by its passengers and crew. (See § 4.39.)

§ 4.12 Correction of manifest.

(a) Collectors of customs shall notify masters or agents of vessels of overages or shortages of merchandise on customs Form 5931. The discrepancies shall be resolved promptly by the master or agent and the customs Form 5931 shall be returned to the collector with the completion thereon of a shortage certificate,[23] a post entry,[24] or other suitable explanation of the corrective action taken (see § 4.34). Unless the collector is satisfied that the discrepancies were the result of clerical error or other mistake and that there has been no loss to the revenue, applicable penalties under section 584, Tariff Act of 1930, as amended, shall be assessed, and the facts shall be reported to the collector for the port where the vessel's bond was filed for any necessary action against the bond. For the purpose of assessing such penalties, the value of the merchandise shall be computed as prescribed in § 23.12 of this chapter. The fact that the master or owner had no knowledge of a discrepancy shall not relieve him from the penalty.

(b) A correction in the manifest shall not be required in the case of bulk merchandise if the collector is satisfied that the difference between the manifested quantity and the quantity unladen, whether the difference constitutes an overage or a shortage, is an ordinary and usual difference properly attributable to absorption of moisture, temperature, faulty weighing at the port of lading, or other similar reason. A correction in the manifest shall not be required because of discrepancies between marks or numbers on packages of merchandise and the marks or numbers for the same packages as shown on the manifest of the importing vessel when the quantity and description of the merchandise in such packages are correctly given.

(Secs. 440, 584, 46 Stat. 712, as amended, 748, as amended; 19 U.S.C. 1440, 1584)

§ 4.13 Alcoholic liquors on vessels of not over 500 tons.[25]

(a) When a vessel of not over 500 net tons which arrives from any foreign port or place or from a visit to a hovering vessel has on board any alcoholic liquors, other than sea stores, destined to the United States, a certificate on foreign service, Form 149 for the importation of such liquors shall be delivered to the

---

[21] "It shall not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of section 435 of this Act until such master shall produce to him a clearance in due form from the collector of the port where such vessel has been entered. Any consul offending against the provisions of this section shall be liable to a fine of not more than $5,000." (Tariff Act of 1930, sec. 438; 19 U. S. C. 1438)

[22] Except as provided in section 441 of this Act (relating to vessels not required to enter), no merchandise, passengers, or baggage shall be unladen from any vessel or vehicle arriving from a foreign port or place until entry of such vessel or report of the arrival of such vehicle has been made and a permit for the unlading of the same issued by the collector: *Provided*, That the master may make a preliminary entry of a vessel by making oath or affirmation to the truth of the statements contained in the vessel's manifest and delivering the manifest to the customs officer who boards such vessel, but the making of such preliminary entry shall not excuse the master from making formal entry of his vessel at the customhouse, as provided by this Act. After the entry, preliminary or otherwise, of any vessel or report of the arrival of any vehicle, the collector may issue a permit to the master of the vessel, or to the person in charge of the vehicle, to unlade merchandise or baggage, but except as provided in subdivision (b) of this section merchandise or baggage so unladen shall be retained at the place of unlading until entry therefor is made and a permit for its delivery granted, and the owners of the vessel or vehicle from which any imported merchandise is unladen prior to entry of such merchandise shall be liable for the payment of the duties accruing on any part thereof that may be removed from the place of unlading without a permit therefor having been issued. * * *."

(Tariff Act of 1930, section 448(a); 19 U.S.C. 1448(a))

[23] "* * * If any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge or the owner of such vessel or vehicle shall be subject to a penalty of $500: *Provided*, That if the collector shall be satisfied that the manifest * * * is incorrect by reason of clerical error or other mistake and that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred. * * *." (Tariff Act of 1930, sec. 584, as amended; 19 U. S. C. 1584)

[24] "If there is any merchandise or baggage on board such vessel which is not included in or which does not agree with the manifest, the master of the vessel shall make a post entry thereof, and mail or deliver a copy to such employee as the Secretary of the Treasury shall designate and for failure so to do shall be liable to a penalty of $500." (Tariff Act of 1930, sec. 440, as amended; 19 U. S. C. 1440)

[25] "In addition to any other requirement of law, every vessel, not exceeding five hundred net tons, from a foreign port or place, or which has visited a hovering vessel, shall carry a certificate for the importation into the United States of any spirits, wines, or other alcoholic liquors on board thereof (sea stores excepted), destined to the United States, said certificate to be issued by a consular officer of the United States or other authorized person pursuant to such regulations as the Secretary of State and the Secretary of the Treasury may jointly prescribe. Any spirits, wines, or other alcoholic liquors (sea stores excepted) found, or discovered to have been, upon any such vessel at any place in the United States, or within the customs waters, without said certificate on board, which are not shown to have a bona fide destination without the United States, shall be seized and forfeited and, in the case of any such merchandise so destined to a foreign port or place, a bond shall be required in double the amount of the duties to which such merchandise would be subject if imported into the United States, conditioned upon the delivery of said merchandise at such foreign port or place as may be certified by a consular officer of the United States or otherwise as provided in said regulations: *Provided*, That if the collector shall be satisfied that the certificate required for the importation of any spirits, wines, or other alcoholic liquors was issued and was lost or mislaid without fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake, said penalties shall not be incurred nor shall such bond be required. * * *." (19 U.S.C. 1707)

boarding officer with the inward foreign manifest.

(b) When any shipment of spirits, wines, or other alcoholic liquors found on board a vessel not exceeding 500 net tons is shown to have a bona fide destination outside the United States, the master shall furnish a landing bond on customs Form 7593 (see T.D. 47886) with an authorized corporate surety unless the shipment is accompanied by a certificate on foreign service Form 149.

(c) The condition of the landing bond shall be satisfied by the delivery to the collector of customs within 6 months from the date of the bond of a landing certificate or certificates of a revenue officer of the country of destination showing that all the alcoholic liquors have been landed at their foreign destination.

(Sec. 7, 49 Stat. 520; 19 U.S.C. 1707)

§ 4.14 Equipment and repairs to American vessels.

(a) The master's declaration on customs Form 3415 required by § 4.7(b)(2), covering equipment, repair parts, or material acquired, or expense for repairs incurred, in a foreign country,[26] within the purview of section 466, Tariff Act of 1930, as amended,[27] shall be filed, whether or not the items, or any of them, may be exempt from entry as stated in paragraph (b)(1) of this section.

(b) Entry on customs Form 7535 shall be made for such equipment or repairs. Such entry shall show the last sailing date from each country at which repairs were made on the particular voyage. Estimated duties shall be deposited or a bond on customs Form 7567 or 7569 given therefor before the vessel shall be allowed clearance, except that—

(1) No entry or bond shall be required with respect to items which the collector is satisfied are clearly within the purview of R.S. 3115(3), as amended, and

(2) Vessels owned by the United States, although subject to the provisions of section 466, Tariff Act of 1930, as amended, shall be allowed to proceed without such deposit of duties or filing of a bond, if operated by the Maritime Administration or other agency of the United States or if operated under an agreement providing that such an agency shall pay duties accruing under section 466. Vessels owned by the United States and operated by private parties who are liable by agreement for duties accruing under section 466 shall be treated in all respects the same as privately-owned vessels.

(c) The master shall file with the entry receipts showing the costs of items enumerated in the said section 466. If, however, it is impracticable to produce such receipts at the time of entry, liquidation of the entry shall be suspended pending the furnishing of a complete account of the items liable to duty. In such cases the collector shall cause an examination of such equipment or repairs to be made by a representative of the appraiser's office, if possible, in order to verify the cost declared on entry. If the cost of the equipment or repairs, as shown by the complete account when filed, differs from that declared on entry, the collector may permit the entry to be amended accordingly.

(d) When the entry has been completed by the filing of proper evidence of cost and no application for relief as provided for in paragraph (e) of this section, has been filed within the time authorized or, if filed, has been finally acted upon, or the collector is informed that no such application will be filed, the entry shall be liquidated.

(e) An application for relief may be filed with the collector of customs alleging (1) that an item covered by the entry is not within the class of items liable to duty under section 3114, Revised Statutes, as amended, (2) that such item is within the provisions of section 3115, Revised Statues, as amended, or (3) both of the foregoing. To insure consideration in liquidation of the entry, the application shall be filed within 90 days from the date of the entry and, unless the collector is definitely advised that no application will be filed, the liquidation shall be suspended for that period of time to afford an opportunity for such filing. In meritorious cases the collector may authorize a further suspension of 90 days upon written request therefor. Inasmuch as an unprotested liquidation, insofar as it relates to the classification of items for the purposes of section 3114, Revised Statutes, is final at the expiration of 60 days, a subsequent application in regard to such classification cannot be considered in the absence of a timely protest.

(f) When relief is claimed under subdivision (1) of section 3115, Revised Statutes, as amended, there shall be submitted to the collector of customs a certificate of the master together with itemized bills covering the cost of the repairs made or equipment purchased, abstracts of the vessel's log, and a certificate of the proper officer when the repairs were made in order to obtain a certificate of seaworthiness, all of which shall be in duplicate if the vessel is owned or operated by the Maritime Administration, or a similar agency of the United States. This certificate of the master shall set out fully the following information:

(1) The nature of the casualty or stress of weather encountered;

(2) When and where the casualty or stress of weather occurred;

(3) The damage done by the casualty or stress of weather;

(4) The port where the repairs were made or the equipment secured; and

(5) A statement of the master of the vessel as to whether or not the repairs or equipments were required to secure the safety and seaworthiness of the vessel to enable her to reach her port of destination.

(g) When relief is claimed under subdivision (2) or (3) of section 3115, Revised Statutes, as amended, a certificate of the master shall be submitted to the Collector of Customs, accompanied by the evidence in support of the claim.

(h) The evidence referred to in paragraphs (f) and (g) of this section, or offered in support of an application filed under paragraph (e)(1) of this section, shall be furnished to the collector of customs within 90 days after an application is filed. If such evidence is not received within the 90-day period the entry shall be liquidated without regard to the application unless the collector of customs shall have approved an extension of such period.

---

[26] The Canal Zone and the Virgin Islands are not "foreign countries" within the meaning of sec. 466, Tariff Act of 1930, and equipment, repair parts, or materials there purchased or repairs there made on a vessel of the United States are not dutiable.

[27] "The equipments, or any part thereof including boats, purchased for, or the repair parts or materials to be used, or the expenses of repairs made in a foreign country upon a vessel documented under the laws of the United States to engage in the foreign or coastline trade, or a vessel intended to be employed in such trade, shall on the first arrival of such vessel in any port of the United States, be liable to entry and the payment of an ad valorem duty of 50 per centum on the cost thereof in such foreign country; and if the owner or master of such vessel shall willfully and knowingly neglect or fail to report, make entry, and pay duties as herein required, such vessel, with her tackle, apparel, and furniture, shall be seized and forfeited. For the purposes of this section, compensation paid to members of the regular crew of such vessel in connection with the installation of any such equipments or any part thereof, or the making of repairs, in a foreign country, shall not be included in the cost of such equipment or part thereof, or of such repairs.

"Sec. 3115. If the owner or master of such vessel furnishes good and sufficient evidence—

"(1) That such vessel, while in the regular course of her voyage, was compelled, by stress of weather or other casualty to put into such foreign port and purchase such equipments or make such repairs, to secure the safety and seaworthiness of the vessel to enable her to reach her port of destination; or

"(2) That such equipments or parts thereof or repair parts or materials, were manufactured or produced in the United States, and the labor necessary to install such equipments or to make such repairs was performed by residents of the United States, or by members of the regular crew of such vessel; or

"(3) That such equipments, or parts thereof, or materials, or labor, were used as dunnage for cargo, or for the packing or shoring thereof, or in the erection of temporary bulkheads or other similar devices for the control of bulk cargo, or in the preparation (without permanent repair or alteration) of tanks for the carriage of liquid cargo;

then the Secretary of the Treasury is authorized to remit or refund such duties, and such vessel shall not be liable to forfeiture, and no license or enrollment and license, or renewal of either, shall hereafter be issued to any such vessel until the collector to whom application is made for the same shall be satisfied, from the oath of the owner or master, that all such equipments or parts thereof or materials and repairs made within the year immediately preceding such application have been duly accounted for under the provisions of this and the preceding sections, and the duties accruing thereon duly paid; and if such owner or master shall refuse to take such oath, or take it falsely, the vessel shall be seized and forfeited." (Tariff Act of 1930, sec. 466, as amended, 19 U.S.C. 267, 268)

---

(1) The master shall certify as true copies or originals, as the case may be, from a collector of customs a permit on

(i) The master shall certify as true copies or originals, as the case may be, one copy of each repair bill, abstract of the vessel's log, report of survey, and other documents submitted in support of the application for relief. If a document is written in a foreign language, it shall be accompanied by a translation certified to be accurate.

(j) The authority under section 3115 of the Revised Statutes, as amended, to remit or refund duties is delegated to the several collectors of customs and their successors in office. When the evidence referred to in paragraphs (f), (g), or (h) of this section has been received and examined by the collector of customs he shall notify the owner or operator of the vessel, or other party in interest, of his decision, but if any doubt exists the case shall first be referred to the Bureau for advice. Thirty days after the date of such notice the collector shall proceed to liquidate the entry unless within that period the owner or operator of the vessel, or other party in interest, shall file a petition as provided for in paragraph (k) of this section.

(k) The owner or operator of the vessel involved, or other party in interest, may file with the collector of customs a petition addressed to the Commissioner of Customs for a review of the collector's decision on an application claiming relief under section 3115, Revised Statutes, as amended, (paragraph (e) (2) or (3) of this section). Such petition shall be filed in duplicate within 30 days from the date of the notice of the collector's decision, shall completely identify the case, and shall set forth in detail the exceptions to the collector's decision. When such a petition has been filed, the collector shall immediately transmit both copies thereof and the entire file to the Bureau, together with any comments he may desire to submit. When the Bureau's decision has been received the entry shall be liquidated in accordance therewith.

(R.S. 3114, as amended, 3115, as amended, sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 257, 258, 1498)

§ 4.15 Fishing vessels touching and trading at foreign places.

(a) Before any vessel enrolled and licensed or licensed to engage in the fisheries shall touch and trade at a foreign port or place, the master shall obtain from a collector of customs a permit on customs Form 1379 to touch and trade.[24]

(b) Upon the arrival of a vessel enrolled and licensed or licensed for the fisheries which has put into a foreign port or place, the master shall report its arrival, make entry, and conform in all respects to the regulations applicable in the case of a vessel arriving from a foreign port.

(c) If a vessel which has been granted a permit to touch and trade arrives at a port in the United States, whether or not the vessel has touched at a foreign port or place, such permit shall forthwith be surrendered to the collector of customs.

(d) No permit to touch and trade shall be issued to a vessel enrolled and licensed or licensed for the coasting trade and mackerel fishery which is departing on a foreign voyage to engage exclusively in a trade other than the fisheries. For such a voyage the vessel shall be registered and the master shall obtain clearance for the foreign port or place.

(R.S. 4364, 4365; 46 U.S.C. 310, 311)

§ 4.16 Entry and clearance on board vessels.

(a) A master, owner, or agent of a vessel described in the act of June 16, 1937,[25] who desires that arrival may be reported, entry made, and clearance obtained on board the vessel shall file with the collector an application on customs Form 3853 and a bond on customs Form 7567 in such penal sum as the collector deems sufficient but not less than $1,000, or the usual term bond on customs Form 7569.

(b) If the application is approved, the collector of customs or such deputy collector of customs as may be designated by him shall receive the report of arrival and the entry of the vessel and grant it clearance on board the vessel.

(c) For the purposes of the said act the term "at night" shall include the hours from 5 p. m. of one day to 8 a. m. of the following day, and the term "holiday" shall include only national holidays.

(50 Stat. 303; 19 U.S.C. 1435b)

§ 4.17 Vessels from discriminating countries.

The prohibition against imports in, and the penalty of forfeiture of, certain vessels from countries which discriminate against American vessels provided for in subsections 2 and 3 of paragraph J, section IV, Tariff Act of 1913, as amended by the act of March 4, 1915 (19 U.S.C. 130, 131), shall be enforced only in pursuance of specific instructions issued and published from time to time by the Secretary of the Treasury or such other officer as the Secretary may designate. (See also §§ 4.20(c) and 16.19 of this chapter.)

Tonnage Tax and Light Money

§ 4.20 Tonnage taxes.

(a) Except as specified in § 4.21, a regular tonnage tax or duty[26] of 2 cents

---

[24] "Whenever any vessel, licensed for carrying on the fisheries, is intended to touch and trade at any foreign port, it shall be the duty of the master or owner to obtain permission for that purpose from the collector of the district where such vessel may be, previous to her departure, and the master of every such vessel shall deliver like manifests, and make like entries, both of the vessel and of the merchandise on board, within the same time, and under the same penalty, as are by law provided for vessels of the United States arriving from a foreign port." (46 U.S.C. 310)

"Whenever a vessel, licensed for carrying on the fisheries, is found within three leagues of the coast, with merchandise of foreign growth or manufacture, exceeding the value of $500, without having such permission as is directed by section 310 of this title, such vessel together with the merchandise of foreign growth or manufacture imported therein, shall be subject to seizure and forfeiture." (46 U.S.C. 311; see also 46 U.S.C. 325)

If such a vessel puts into a foreign port or place and only obtains bunkers, stores, or supplies suitable for a fishing voyage, it is not considered to have touched and traded there.

---

[25] "In order to expedite the dispatch of vessels carrying passengers operating on regular schedules and arriving at night or on a Sunday or a holiday at a port in the United States at which such vessel is required by law to report arrival and make entry and from which it is required to obtain a clearance, the collector of customs, or any deputy collector of customs designated by him, if the vessel departs during the same night, Sunday, or holiday on which it arrives may, under such regulations as may be prescribed by the Secretary of the Treasury, receive the report of arrival and entry of such vessel from and give clearance for such vessel to the master or other proper officer thereof on board such vessel: *Provided*, That bond, as prescribed in section 1451 of this title, is given to secure reimbursement to the Government for the compensation of, and expenses incurred by, such customs officers in performing such services, who shall be entitled to rates of compensation fixed on the same basis and payable in the same manner and upon the same terms and conditions as in the case of customs officers and employees assigned to lading or unlading at night or on Sunday or a holiday." (19 U.S.C. 1435b. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

---

[26] "Upon vessels which shall be entered in the United States from any foreign port or place there shall be paid duties as follows: On vessels built within the United States but belonging wholly or in part to subjects of foreign powers, at the rate of thirty cents per ton; on other vessels not of the United States, at the rate of fifty cents per ton, and any vessel any officer of which shall not be a citizen of the United States shall pay a tax of fifty cents per ton.

"A tonnage duty of 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year, is imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or Newfoundland, and a duty of 6 cents per ton, not to exceed 30 cents per ton per annum, is imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port, not, however, to include vessels in distress or not engaged in trade.

"Upon every vessel not of the United States, which shall be entered in one district from another district, having on board goods, wares, or merchandise taken in one district to be delivered in another district, duties shall be paid at the rate of 50 cents per ton: *Provided*, That no such duty shall be required where a vessel owned by citizens of the United States, but not a vessel of the United States, after entering an American port, shall, before leaving the same, be registered as a vessel of the United States. On all foreign vessels which shall be entered in the United States from any foreign port or place, to and with which vessels of the United States are not ordinarily permitted to enter and trade, there shall be paid a duty at the rate of $2 per ton; and none of the duties on tonnage above-mentioned shall be levied on the vessels of any foreign nation if the President of the United States shall be satisfied that the discriminating or countervailing duties of such foreign nations, so far as they operate to the disadvantage of the United States, have been abolished. Any rights or privileges acquired by any foreign nation under the laws and

per net ton, not to exceed in the aggregate 10 cents per net ton in any 1 year, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West Indies, the Bahama Islands, the Bermuda Islands, Newfoundland, or the coast of South America bordering on the Caribbean Sea (considered to include the mouth of the Orinoco River), and regular tonnage tax of 6 cents per net ton, not to exceed 30 cents per net ton per annum, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port. In determining the port of origin of a voyage to the United States and the rate of tonnage tax, the following shall be used as a guide:

(1) When the vessel has proceeded in ballast from a port to which the 6-cent rate is applicable to a port to which the 2-cent rate applies and there has laden cargo or taken passengers, tonnage tax upon entry in the United States shall be assessed at the 2-cent rate.

(2) The same rate shall be applied in a case in which the vessel has transported cargo or passengers from a 6-cent port to a 2-cent port when all such cargo or passengers have been unladen or discharged at the 2-cent port, without regard to whether the vessel thereafter has proceeded to the United States in ballast or with cargo or passengers laden or taken on board at the 2-cent port.

(3) The 6-cent rate shall be applied when the vessel proceeds from a 2-cent port to a 6-cent port en route to the United States under circumstances similar to subparagraph (1) or (2) of this paragraph.

(4) If the vessel arrives in the United States with cargo or passengers taken at two or more ports to which different rates are applicable, tonnage tax shall be collected at the higher rate.

(b) The tonnage year shall be computed from the date of the first entry of the vessel concerned, without regard to the rate of the payment made at that entry, and shall expire on the day preceding the corresponding date of the following year.[37]

(c) A vessel shall also be subject on every entry from a foreign port or place, whether or not regular tonnage tax is payable on the particular entry, to the payment of a special tonnage tax[38] and to the payment of light money[39] at the rates and under the circumstances specified in the following table:

Classes of vessels	Rate per net ton		
	Regular tax	Special tax	Light money
Vessels of the United States:			
1. Under provisional register, without regard to citizenship of officers	$0.02 or $0.06		
2. All others:			
(i) If all the officers are citizens	.02 or .06	[1] $0.50	[1] $0.50
(ii) If any officer is not a citizen	.02 or .06	.50	[3] .50
Undocumented vessels which are owned by citizens [2]			
Vessels of Philippine registry, owned by citizens of the Philippine Islands			
Foreign vessels:			
1. Of nations whose vessels are exempted from special tax or light money	.02 or .06		
2. Entering from a foreign port or place where vessels of the United States are not ordinarily permitted to enter and trade	.02 or .06	[4] 2.00	[4] .50
3. All others:			
(i) Built in the United States	.02 or .06	.30	.50
(ii) Not built in the United States	.02 or .06	.50	.50

[1] This does not apply on the first arrival of a vessel in a port of the United States from a foreign or intercoastal voyage if all the officers who are not citizens are below the grade of master and are filling vacancies which occurred on the voyage

[2] The special tax and light money do not apply if the vessel is documented as a vessel of the United States before leaving the port.

[3] This does not apply if the vessel is under a certificate of protection and the owner or master files with the collector the oath required by 46 U. S. C. 129. An unrecorded bill of sale is not such a document as will exempt a vessel from the payment of light money under 46 U. S. C. 128, and the recording of such bill of sale after the arrival of the vessel is not sufficient to relieve it from the payment of the tax.

[4] This is to be collected on each entry of a vessel from such a port or place.

(d) Tonnage tax shall be imposed upon a vessel even though she enters a port of the United States only for orders.

(e) The fact that a vessel passes through the Canal Zone does not affect the rate of tonnage tax otherwise applicable to the vessel.

(f) For the purpose of computing tonnage tax, the net tonnage of a vessel stated in the vessel's marine document shall be accepted unless (1) such statement is manifestly wrong, in which case the net tonnage shall be estimated, pending admeasurement of the vessel, or the tonnage reported for her by any recognized classification society may be accepted, or (2) an appendix is attached to the marine document showing a net tonnage ascertained under the so-called "British rules" or the rules of any foreign country which have been accepted as substantially in accord with the rules of the United States, in which case the tonnage so shown may be accepted and the date the appendix was issued shall be noted on the tonnage tax certificate, customs Form 1002, and on the master's oath, customs Form 3251.

(g) The decision of the Commissioner of Customs is final on any question of interpretation relating to the collection of tonnage tax or to the refund of such tax when collected erroneously or illegally, and any question of doubt shall be referred to him for instructions.

(R.S. 4153, as amended, secs. 2, 4, 28 Stat. 743, as amended, R.S. 4154, as amended, 4219, as amended, 4225, as amended, 4131, as amended; 46 U.S.C. 77, 78, 79, 81, 121, 128, 221)

§ 4.21 Exemptions from tonnage taxes.

(a) Tonnage taxes and light money shall be suspended in whole or in part whenever the President by proclamation shall so direct.

(b) A vessel shall not be liable to the payment of tonnage tax or light money merely because—

(1) It comes into port for bunkers (including water), sea stores, or ship's stores; transacts no other business in the port; and departs within 24 hours after its arrival.

(2) It arrives in distress, even though required to enter.

(3) It is brought into port by orders of United States naval authorities and transacts no business while in port other than the taking on of bunkers, sea stores, or ship's stores.

(4) It is a vessel of war or other vessel which is owned by, or under the complete control and management of the United States or the government of a foreign country, and which is not carrying passengers or merchandise in trade or, if in ballast, which is not arriving from a foreign port during the usual course of its employment as a vessel engaged in trade.

(5) It is a yacht or other pleasure vessel not carrying passengers or merchandise in trade.

(6) It is engaged exclusively in scientific activities.

(7) It is engaged exclusively in laying or repairing cables.

(8) It is engaged in whaling or other fisheries, even though it may have entered a foreign port for fuel or supplies, if it did not carry passengers or merchandise in trade.

(9) It is a passenger vessel making three trips or more a week between a port of the United States and a foreign port.

(10) It is used exclusively as a ferry boat, including a car ferry.

(11) It is a tug under frontier enrollment and license, when towing vessels which are required to make entry.

(12) It is a vessel under frontier enrollment and license which has touched at an intermediate foreign port or ports during a coastwise voyage.

(13) It enters otherwise than by sea from a foreign port at which tonnage or lighthouse dues or equivalent taxes are not imposed on vessels of the United States."

---

treaties of the United States relative to the duty of tonnage on vessels shall not be impaired; and any vessel any officer of which shall not be a citizen of the United States shall pay a tax of 50 cents per ton." (46 U. S. C. 121)

[37] There may be five payments at the maximum (6-cent) and five at the minimum (2-cent) rate during a tonnage year, so that the maximum assessment of tonnage duty may amount to 40 cents per net ton for the tonnage year of a vessel engaged in alternating trade.

[38] See footnote 36.

[39] "A duty of 50 cents per ton, to be denominated 'light money', shall be levied and collected on all vessels not of the United States which may enter the ports of the United States. Such light money shall be levied and collected in the same manner and under the same regulations as the tonnage duties: *Provided*, That no such duty shall be required where a vessel owned by citizens of the United States, but not a vessel of the United States, after entering an American port, shall, before leaving the same, be registered as a vessel of the United States." (46 U. S. C. 123)

[40] "Vessels entering otherwise than by sea from a foreign port at which tonnage or lighthouse dues or other equivalent tax or taxes are not imposed on vessels of the United States shall be exempt from the tonnage duty

may amount to 40 cents per net ton for the

(14) It is owned by a citizen of the Philippine Islands and is documented by the Philippine Government.

(15) It is a vessel entering directly from the Virgin Islands (U. S.), the Canal Zone, American Samoa, Ryukyu Islands, the islands of Guam, Wake, Midway, Canton, or Kingman Reef, or Guantanamo Bay Naval Station.

(16) It is a vessel making regular daily trips between any port of the United States and any port in Canada wholly upon interior waters not navigable to the ocean, except that such a vessel shall pay tonnage taxes upon her first arrival in each calendar year.

(Sec. 441, 46 Stat. 712, as amended, R.S. 4214, as amended, 4219, as amended, 4220, 2793, as amended, 2792, as amended, 4221, 4225, as amended, 4226, sec. 1, 39 Stat. 286, 36 Stat. 234, R.S. 4227; 19 U.S.C. 1441, 46 U.S.C. 103, 121–125, 128–130, 132, 135)

§ 4.22 Exemptions from special tonnage taxes.

Vessels of the following nations are exempted by treaties, Presidential proclamations, or orders of the Secretary of the Treasury from the payment of any higher tonnage duties than are applicable to vessels of the United States and are exempted from the payment of light money:

Argentina.
Australia.
Belgium.
Bolivia.
Brazil.
Burma.
Canada.
Chile.
China.
Colombia.
Costa Rica.
Cuba.
Denmark.
Dominican Republic.
Ecuador.
El Salvador.
Estonia.
Ethiopia.
Fiji.
Finland.
France.
German Federal Republic.
Ghana.
Great Britain.
Greece.
Greenland.
Guatemala.
Haiti.
Honduras.
Iceland.
India.
Iran.
Iraq.
Ireland (Eire).
Israel.
Italy.
Ivory Coast, Republic of
Japan.
Korea.
Latvia.
Lebanon.
Liberia.
Mexico.
Morocco.
Muscat (Oman).
Netherlands.
New Zealand.
Nicaragua.
Norway.
Pakistan.
Palestine.
Panama.
Paraguay.
Peru.
Poland.
Portugal.
Saudi Arabia.
Spain.
Sweden.
Switzerland.
Thailand.
Turkey.
Union of South Africa.
Union of Soviet Socialist Republics.
United Arab Republic.
Uruguay.
Venezuela.
Yugoslavia.

(R.S. 4219, as amended, 4225, as amended, 4228, as amended; 46 U.S.C. 121, 128, 141)

§ 4.23 Certificate of payment.

Upon each payment of tonnage tax or light money, the collector of customs shall give to the master of the vessel a certificate on customs Form 1002. This certificate shall constitute the official evidence of such payment and shall be presented upon each entry during the tonnage year in order to establish the date of commencement of the tonnage year and to insure against overpayment. In the absence of such certificate, evidence of payment of tonnage tax shall be obtained from the collector of customs to whom the payment was made.

§ 4.24 Application for refund of tonnage tax.

(a) Each application for the refund of tonnage tax or light money[45] shall be submitted to the collector of customs to whom the payment was made. After verification of the pertinent facts asserted in the claim, the application shall be forwarded for decision, with any necessary report or recommendation, to the Commissioner of Customs.

(b) The application shall be a direct request for the refund of a definite sum, showing concisely the reasons therefor, the nationality, rig, and name of the vessel, and the date, place, and amount of each payment for which refund is asked. When the application for refund is based upon a claim that more than five payments of regular tax at either the 2-cent or the 6-cent rate have been made during a tonnage year, the application shall be supported by a statement from the collector at the port where the application is submitted and from the collector at each port at which any claimed payment was made verifying the facts and showing in each case whether refunds have been authorized. The application shall include a certificate by the owner or by the owner's agent that payment of tonnage tax at the applicable rate has been or will be made for each entry of the vessel on a voyage on which that rate is applicable before the end of the current tonnage year, exclusive of any payment which has been refunded or which may be refunded as a result of such application. A protest against a payment shall not be accepted as an application for its refund.

(c) The application shall be made within 1 year from date of the payment.

(d) The collector of customs to whom payment was made shall make any refund authorized by the Commissioner of Customs. The records of payment of tonnage tax shall be clearly noted to show each refund authorized.

Landing and Delivery of Cargo

§ 4.30 Permits and special licenses for unlading and lading.

(a) Except as prescribed in paragraph (f), (g), or (k) of this section or in § 5.2 of this chapter and except in the case of a vessel exempt from entry or clearance under 19 U.S.C. 288[55] no passengers,[56] cargo,[57] baggage,[58] or other articles[59] shall be unladen from a vessel which arrives directly or indirectly from any port or place outside the customs territory of the United States and no cargo, baggage, or

---

of 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year." (46 U. S. C. 132) This statute applies to a vessel arriving in the United States on a voyage otherwise than by sea from a port in the province of Ontario, Canada, only.

[45] "Whenever any fine, penalty, forfeiture, exaction, or charge arising under the laws relating to vessels or seamen has been paid to any collector of customs, or Coast Guard official, or consular officer, and application has been made within one year from such payment for the refunding or remission of the same, the Commandant of the Coast Guard or the Secretary of the Treasury, as the case may be, if on investigation he finds that such fine, penalty, forfeiture, exaction, or charge was illegally, improperly, or excessively imposed, shall have the power, either before or after the same has been covered into the Treasury, to refund so much of such fine, penalty, forfeiture, exaction, or charge as he may think proper, from any moneys in the Treasury not otherwise appropriated." (46 U. S. C. 8)

[55] "Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of entry and clearance fees, as if from or to foreign ports; but such vessels shall, notwithstanding, be required to enter and clear; except that when such vessels are on such voyages on the Great Lakes and touch at foreign ports for the purpose of taking on bunker fuel only, they may be exempted from entering and clearing under such rules and regulations as the Commissioner of Customs may prescribe, notwithstanding any other provision of law: *Provided*, That this exception shall not apply to such vessels if, while at such foreign port, they land or take on board any passengers, or any merchandise other than bunker fuel, receive orders, discharge any seamen by mutual consent, or engage any seamen to replace those discharged by mutual consent, or transact any other business save that of taking on bunker fuel." (19 U.S.C. 288)

[56] "If any passenger is unladen from any vessel or vehicle without a special license or permit therefor issued by the collector, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, shall each be liable to a penalty of $500 for each such passenger so unladen." (Tariff Act of 1930, sec. 454; 19 U. S. C. 1454)

[57] "* * * After the entry, preliminary or otherwise, of any vessel or report of the arrival of any vehicle, the collector may issue a permit to the matter of the vessel, or to the person in charge of the vehicle, to unlade merchandise or baggage, but except as provided in subdivision (b) of this section merchandise or baggage so unladen shall be retained at the place of unlading until entry therefor is made and a permit for its delivery granted, and the owners of the vessel or vehicle from which any imported merchandise is unladen prior to entry of such merchandise shall be liable for the payment of the duties accruing on any part thereof that may be removed from the place of unlading without a permit therefor having been issued. Any merchandise or baggage so unladen from any vessel or vehicle for which entry is not made within forty-eight hours exclusive of Sunday and holidays from the time of the entry of the vessel or report of the vehicle, unless a longer time is granted by the collector as provided in section 484, shall be sent to a bonded warehouse or the public stores and held as unclaimed at the risk and expense of the consignee in the case of merchandise and of the owner in the case of baggage, until entry thereof is made." (Tariff Act of 1930, sec. 448 (a); 19 U. S. C. 1448 (a))

[58] "Vessels arriving in the United States from foreign ports may retain on board, without the payment of duty, all coal and other fuel, supplies, ships' stores, sea stores, and the legitimate equipment of such vessels. Any such supplies, ships' stores, sea stores, or equipment landed and delivered from such vessel shall be considered and treated as imported merchandise: *Provided*, That bunker

other article shall be laden [59] on a vessel destined to a port or place outside the customs territory of the United States, if customs supervision of such lading is required,[61] until the collector shall have issued a permit or special license therefor on customs Form 3171.

(b) Application for such a permit or special license shall be made by the master, owner, or agent of the vessel on customs Form 3171, and shall indicate the type of operations desired. An agent of a vessel may limit his application to operations involved in the entry and unlading of the vessel or to operations involved in its lading and clearance.

(c) No unlading [60] or lading [61] requiring customs supervision shall be done at night or on a Sunday or holiday unless the application on customs Form 3171 is supplemented by a request of the master, owner, or agent of the vessel for overtime services of customs officers and the request is approved by the collector. Such approval, together with the permit, shall constitute a special license. The request for overtime services of customs officers, if made at the time the application to unlade or lade is filed, may be on customs Form 3171 in the space provided therefor, but if made thereafter, shall be on customs Form 3853. Such request for overtime services must specify the nature of the services desired and the exact times when they will be needed, unless arrangements are made locally so that the proper customs officer will be seasonably notified during official hours in advance of the rendering of the services as to the nature of the services desired and the exact times that they will be needed. Such request shall not be approved unless the required cash deposit or bond [62] on customs Form 7567 or 7569 shall have been received, except that, when a carrier has on file a bond on customs Form 3587, no further bond shall be required solely by reason of the unlading or lading at night or on a Sunday or holiday of merchandise or baggage covered by bonded transportation entries. If a request for overtime services is limited as set forth in paragraph (b) of this section appropriate words such as "to enter and unlade", or "to lade and clear", shall be used in the request. Separate bonds shall be required if overtime services are requested by different principals.

(d) Except as prescribed in paragraph (f) or (g) of this section, a separate application for a permit or special license shall be filed in the case of each arrival. The permit or special license shall not become effective until the master shall have made preliminary or formal entry or, in the case of vessels not required to enter, the master shall have reported the arrival of the vessel.

(e) Stevedoring companies and others concerned in lading or unlading merchandise, or in removing or otherwise securing it, shall ascertain that the applicable preliminary customs requirements have been complied with before commencing such operations, since performance in the absence of such compliance renders them severally liable to the penalties prescribed in section 453, Tariff Act of 1930,[59] even though they may not be responsible for taking the action necessary to secure compliance.

(f) A special license on customs Form 3851 running for any period up to 1 month and in multiples of months thereafter but not to exceed 1 year nor longer than the period of the supporting bond may be granted to a carrier operating passenger vessels making three or more trips a week between a port in the United States and a foreign port, or to an owner or agent of vessels employed in the fisheries or used as ferryboats, including car ferries, to unlade merchandise, passengers, or baggage, or to lade merchandise or baggage in the case of any or all of such vessels at night or on a Sunday or holiday when customs supervision is required. The application for such a special license to lade or unlade and request for overtime services of customs officers shall be on customs Form 3851. Arrangements shall be made locally so that the proper customs officer will be seasonably notified during official hours in advance of the rendering of the services as to the nature of the services desired and the exact times that they will be needed. The special license shall not be granted unless the required bond on customs Form 3587, 7567, or 7569 shall have been filed.

(g) The collector may also issue a permit running for any period up to 1 month, and in multiples of months thereafter but not to exceed 1 year, to unlade or lade vessels specified in paragraph (f) of this section during official hours. Customs Form 3851 (modified) shall be used for such purpose.

(h) A special license for the unlading or lading of a vessel at night shall be refused by the collector if the character of the merchandise or the conditions or facilities at the place of unlading or lading render the issuance of such special license dangerous to the revenue. In no case shall a special license for unlading or lading on a Sunday or holiday be granted except on the ground of commercial necessity.

(i) The collector shall not issue a permit to unlade cargo or equipment of vessels arriving directly or indirectly from any port or place outside the customs territory of the United States, except on compliance with one or more of the following conditions:

(1) The merchandise shall have been duly entered and permits issued; or

(2) A vessel bond on customs Form 7567 or 7569 shall have been given; or

(3) The merchandise is to be discharged into the custody of the collector of customs as provided for in section 490 (b), Tariff Act of 1930.[63]

(j) Bonds are not required under this section for vessels owned by the United States and operated for its account.

(k) In the case of vessels of 5 net tons or over which are used exclusively as pleasure vessels and which arrive from any country, the collector in his discretion and under such conditions as he deems advisable may allow the re-

---

coal, bunker oil, ships' stores, sea stores, or the legitimate equipment of vessels belonging to regular lines plying between foreign ports and the United States, which are delayed in port for any cause, may be transferred under a permit by the collector and under customs supervision from the vessel so delayed to another vessel of the same line and owner, and engaged in the foreign trade, without the payment of duty thereon." (Tariff Act of 1930, sec. 446; 19 U. S. C. 1446)

The provisions of section 446, Tariff Act of 1930, do not apply to vessels of less than 5 net tons. (T. D. 45431)

[59] "If any merchandise or baggage is laden on, or unladen from, any vessel or vehicle without a special license or permit therefor issued by the collector, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, or in removing or otherwise securing such merchandise or baggage, shall each be liable to a penalty equal to the value of the merchandise or baggage so laden or unladen, and such merchandise or baggage shall be subject to forfeiture, and if the value thereof is $500 or more, the vessel or vehicle on or from which the same shall be laden or unladen shall be subject to forfeiture." (Tariff Act of 1930, section 453; 19 U. S. C. 1453)

[60] "No merchandise, baggage, or passengers arriving in the United States from any foreign port or place, and no bonded merchandise or baggage being transported from one port to another, shall be unladen from the carrying vessel or vehicle on Sunday, a holiday, or at night, except under special license granted by the collector under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, section 450; 19 U. S. C. 1450)

The term "at night" includes the hours from 5 p. m. of any day to 8 a. m. of the following day.

[61] "No merchandise or baggage entered for transportation under bond or for exportation with the benefit of drawback, or other merchandise or baggage required to be laden under customs supervision, shall be laden on any vessel or vehicle at night or on Sunday or a holiday, except under special license therefor to be issued by the collector under the same conditions and limitations as pertain to the unlading of imported merchandise or merchandise being transported in bond." (Tariff Act of 1930, sec. 452, 19 U. S. C. 1452)

[62] "Before any such special license to unlade shall be granted, the master, owner, or agent of such vessel or vehicle, or the person in charge of such vehicle, shall be required to deposit sufficient money to pay, or to give a bond in an amount to be fixed by the Secretary conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with such unlading at night or on Sunday or a holiday, in accordance with the provisions of section 5 of the act of February 13, 1911, as amended (U. S. C., 1952 edition, title 19, sec. 267). In lieu of such deposit or bond the owner or agent of any vessel or vehicle or line of vessels or vehicles may execute a bond in an amount to be fixed by the Secretary of the Treasury to cover and include the issuance of special licenses for the unlading of such vessels or vehicles for a period not to exceed one year. * * *" (Tariff Act of 1930, section 451, as amended. 19 U.S.C. 1451)

[63] "At the request of the consignee of any merchandise, or of the owner or master of the vessel, or the person in charge of the vehicle in which the same is imported, any merchandise may be taken possession of by the collector after the expiration of one day after the entry of the vessel or report of the vehicle and may be unladen and held at the risk and expense of the consignee until entry thereof is made." (Tariff Act of 1930, section 490 (b); 19 U. S. C. 1490 (b))

following day.

[c] "No merchandise or baggage entered for transportation under bond or for exportation ... such vessels or vehicles for a period ... exceed one year. ..." (Tariff Act of 1930, section 451, as amended, 19 U.S.C. 1451)

... seasonably notified during ... in advance of the rendering of the serv- ... 19 U. S. C. 1450 (b))

quired application for unlading passengers and baggage to be made orally, and may authorize his inspectors to grant oral permission for unlading at any time, and to grant requests on Form 3853 for overtime services.

(R.S. 2793, as amended, secs. 446, 448, 450–454, 490, 46 Stat. 713, 714, 715, as amended, 716, 726; 19 U.S.C. 288, 1446, 1448, 1450–1454, 1490)

§ 4.31 Unlading or transshipment due to casualty.

(a) When any cargo or stores of a vessel have been unladen or transshipped at any place in the United States or its customs waters other than a port of entry because of accident, stress of weather, or other necessity, no penalty shall be imposed under section 453 [a] or 586 (a),[b] Tariff Act of 1930, if due notice is given to the collector of customs at the port at which the vessel thereafter first arrives and satisfactory proof is submitted to him as provided for in section 586 (f), Tariff Act of 1930, as amended.[c]

[a] "If any merchandise or baggage is laden on, or unladen from, any vessel or vehicle without a special license or permit therefor issued by the collector, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, or in removing or otherwise securing such merchandise or baggage, shall each be liable to a penalty equal to the value of the merchandise or baggage so laden or unladen, and such merchandise or baggage shall be subject to forfeiture, and if the value thereof is $500 or more, the vessel or vehicle on or from which the same shall be laden or unladen shall be subject to forfeiture." (Tariff Act of 1930, sec. 453; 19 U. S. C. 1453)

[b] "The master of any vessel from a foreign port or place who allows any merchandise (including sea stores) to be unladen from such vessel at any time after its arrival within the customs waters and before such vessel has come to the proper place for the discharge of such merchandise and before he has received a permit to unlade, shall be liable to a penalty equal to twice the value of the merchandise but not less than $1,000, and such vessel and its cargo and the merchandise so unladen shall be seized and forfeited." (Tariff Act of 1930, sec. 586 (a), as amended; 19 U. S. C. 1586 (a))

[c] "Whenever any part of the cargo or stores of a vessel has been unladen or transshipped because of accident, stress of weather, or other necessity, the master of such vessel and the master of any vessel to which such cargo or stores has been transshipped shall, as soon as possible thereafter, notify the collector of the district within which such unlading or transshipment has occurred, or the collector within the district at which such vessel shall first arrive thereafter, and shall furnish proof that such unlading or transshipment was made necessary by accident, stress of weather, or other unavoidable cause, and if the collector is satisfied that the unlading or transshipment was in fact due to accident, stress of weather, or other necessity, the penalties described in this section shall not be incurred." (Tariff Act of 1930, sec. 586 (f), as amended, 19 U. S. C. 1586 (f))

The collector may accept the certificates of the master and two or more officers or members of the crew of the vessel, of whom the person next to the master in command shall be one, as proof that the unlading or transshipment was necessary by reason of unavoidable cause.

(b) The collector may then permit entry of the vessel and its cargo and permit the unlading of the cargo in such place in his district as he may deem proper. Unless its transportation has been in violation of the coastwise laws, the cargo may be cleared through customs at the port where it is discharged or forwarded to the port of original destination under an entry for immediate transportation or for transportation and exportation, as the case may be. All regulations shall apply in such cases as if the unlading and delivery took place at the port of original destination.

(Secs. 453, 586, 46 Stat. 716, 749, as amended; 19 U.S.C. 1453, 1586)

§ 4.32 Vessels in distress; landing of cargo.

(a) When a vessel from a foreign port arrives in distress at a port other than that to which it is destined, a permit to land merchandise or baggage may be issued if such action is necessary. Merchandise and baggage so unladen shall be taken into customs custody and, if it has not been transported in violation of the coastwise laws, may be entered and disposed of in the same manner as any other imported merchandise or may be reladen without entry to be carried to its destination on the vessel from which it was unladen, subject only to charges for storage and safekeeping.

(b) A bond on customs Form 7567 shall be given in an amount to be determined by the collector to insure the proper disposition of the cargo, whether such cargo be dutiable or free.

(Sec. 449, 46 Stat. 714; 19 U.S.C. 1449)

§ 4.33 Diversion of cargo.

(a) If an emergency exists at the port of destination and authority under section 449, Tariff Act of 1930,[a] is desired for a collector to permit a vessel which has entered with imported merchandise or baggage shown by the manifest to be destined to his port to proceed to another port of entry in accordance with the residue-cargo bond procedure, the owner or the agent of the vessel shall make written application for such authorization stating the reasons and agreeing to hold the collector and the Government harmless for such diversion.

(b) Merchandise and baggage unladen at the second port under these circumstances may be (1) entered in the same manner as other imported merchandise and baggage, (2) treated as unclaimed, or (3) reladen without entry for transportation to its original destination.

(c) The inward foreign manifest of a vessel may be changed at any time following entry of the vessel to substitute domestic ports for either other domestic or foreign ports as ports of discharge of the merchandise shown on the inward foreign manifest. A written application for the diversion shall be made by the master, owner, or agent of the vessel to the collector of the port where the vessel is located, after entry of the vessel at that port. An amended manifest under oath covering the merchandise which it is desired to divert shall be furnished in support of the application. The amended manifest shall be filed in such number of copies as the collector may require for local customs purposes. The certified traveling manifest shall not be altered or added to in any way by the master or agent. When an application to divert to another port for discharge is approved by a collector for an intermediate port, he shall securely attach an approved copy of the application and a copy of the amended manifest to the traveling manifest and shall send one copy of the amended manifest to the collector at the port where the vessel's bond was filed.

(d) If, as the result of a strike or other emergency at a United States port for which inward foreign cargo is manifested, it is desired to retain the cargo on board the vessel for discharge at a foreign port but with the purpose of having the goods returned to the United States, an application to amend the vessel's manifest under a procedure like that described in paragraph (c) of this section, except to substitute a foreign for the domestic port named as the port of discharge, may be made by the master, owner, or agent of the vessel. If the application is approved, it shall thereafter be handled in the same manner as an application filed under paragraph (c) of this section. However, before approving the application, the collector is authorized to require such bond as he deems necessary to insure that export control laws and regulations are not circumvented.

(Sec. 449, 46 Stat. 714; 19 U.S.C. 1449)

[a] "Except as provided in sections 442 and 447 of this Act (relating to residue cargo and to bulk cargo, respectively), merchandise and baggage imported in any vessel by sea shall be unladen at the port of entry to which such vessel is destined, unless (1) such vessel is compelled by any cause to put into another port of entry, and the collector of such port issues a permit for the unlading of such merchandise or baggage, or (2) the Secretary of the Treasury, because of an emergency existing at the port of destination, authorizes such vessel to proceed to another port of entry. Merchandise and baggage so unladen may be entered in the same manner as other imported merchandise or baggage and may be treated as unclaimed merchandise or baggage and stored at the expense and risk of the owner thereof, or may be reladen without entry upon the vessel from which it was unladen for transportation to its destination." (Tariff Act of 1930, sec. 449; 19 U. S. C. 1449)

§ 4.34 Prematurely discharged, overcarried, and undelivered cargo.

(a) On written application of the owner or agent of a vessel, the collector may permit inward foreign cargo remaining on the dock, which was prematurely landed and left behind by the importing vessel, to be reladen on board the next available vessel of the same line on which it may be forwarded to the destination shown on the inward foreign manifest of the first vessel, provided the importing vessel actually entered the port of destination of the prematurely landed cargo. Unless so forwarded within 30 days from the date of landing, such cargo shall be appropriately entered for customs clearance or for forwarding in bond; otherwise, it shall be sent to general order as unclaimed.

(b) The collector may permit merchandise not landed at destination and

overcarried to another domestic port through error or on account of an emergency to be returned in the importing vessel, or in another vessel of the same line, to the destination shown on the inward foreign manifest of the importing vessel, provided that vessel actually entered the port of such destination.[67a]

(c) Cargo so stowed as to be inaccessible upon arrival at destination may be retained on board, carried forward to another domestic port or ports, and returned to the port of destination in the importing vessel or in another vessel of the same line in the same manner as other overcarried cargo.

(d) When it is desired that prematurely landed or overcarried cargo be forwarded to destination by the importing vessel or by another vessel of the same line in accordance with paragraph (a), (b), or (c) of this section, an application therefor shall be filed with the local collector by the owner or agent of the vessel. Such application shall be supported by a manifest of the cargo in such number of copies as the collector may require under a residue cargo procedure as hereinafter described. Whenever practicable, the application shall be made on the face of the manifest below the description of the merchandise, if there is sufficient space therefor. The manifest shall specify the vessel on which the cargo was imported even though the forwarding to destination is by another vessel of the same line. The application shall be stamped and signed to show its approval.

(e) One copy of the manifest shall be certified by customs for use as a separate traveling manifest for the prematurely landed or overcarried cargo being forwarded as residue cargo, whether or not the forwarding vessel is also carrying other residue cargo. If application for forwarding to destination is made on the manifest, the new substitute traveling manifest shall be stamped to show the approval of the application thereon or if the application is on a separate document a copy thereof stamped to show its approval shall be attached to the substitute traveling manifest. A separate certificate on customs Form 3221 shall be attached to each such traveling manifest. An appropriate cross-reference shall be made on customs Form 3221 to show whether any other traveling manifest is being carried forward on the same vessel.

(f) A certificate (Customs Form 3221) signed by the collector and bearing notations suitably identifying the cargo as prematurely landed or overcarried cargo shall be attached to the substitute traveling manifest. The Form 3221 shall state the ports of departure and dates of sailing of the importing vessel. The permit to proceed, customs Form 1385, issued to the vessel transporting to destination the prematurely landed or overcarried cargo shall make reference to the nature of such cargo, identifying it with the importing vessel.

(g) A vessel with such prematurely landed or overcarried cargo on board shall comply upon arrival at each intermediate port and at destination with all the requirements of this part relating to foreign residue cargo for domestic ports. When such prematurely landed or overcarried cargo arrives at the port of destination under an approved application and substitute traveling manifest, the collector shall check to see whether the cargo covered by the application and substitute traveling manifest was included in the manifest filed on the original entry of the importing vessel at the first port of entry in the United States, to determine whether a post entry to the original manifest is required. The substitute traveling manifest, carried forward from port to port by the oncarrying vessel, shall be finally surrendered at the port where the last portion of the prematurely landed or overcarried cargo is discharged.

(h) Merchandise shipped from a domestic port, but undelivered at the foreign destination and brought back, shall be manifested as "Undelivered—To be returned to original foreign destination," if such return is intended. The collector may issue a permit to retain such merchandise on board, or he may, upon written application of the steamship company issue a permit on customs Form 7500–A allowing such merchandise to be transferred to another vessel for return to the original foreign destination. No charge shall be made against the vessel bond. The items shall be remanifested outward and an explanatory reference of the attending circumstances and compliance with export requirements noted.

§ 4.35 Unlading outside port of entry.

(a) Upon written application from the interested party, the collector of customs concerned, if he considers it necessary, may permit any vessel laden with merchandise in bulk to proceed, after entry, to any place outside the port where the vessel entered which such collector may designate for the purpose of unlading such cargo.[68]

(b) In such case a deposit of a sum sufficient to reimburse the Government for the compensation, travel, and subsistence expenses of the officers detailed to supervise the unlading and delivery of the cargo may be required by the collector.

(Sec. 447, 46 Stat. 714; 19 U.S.C. 1447)

§ 4.36 Delayed discharge of cargo.

(a) When pursuant to section 457, Tariff Act of 1930,[69] customs officers are placed on a vessel which has retained merchandise on board more than 25 days after the date of the vessel's arrival, their compensation and subsistence expenses shall be reimbursed to the Government by the owner or master.

(b) The compensation of all customs officers and employees assigned to supervise the discharge of a cargo within the purview of section 458, Tariff Act of 1930,[70] after the expiration of 25 days after the date of the vessel's entry shall be reimbursed to the Government by the owner or master of the vessel.

(c) When a cargo within the purview of the proviso to the first subdivision of section 431, Tariff Act of 1930 [71] is manifested "for orders" upon the arrival of the vessel, no amendment of the manifest to show another port of discharge shall be permitted after 15 days after the date of the vessel's arrival, except as provided for in § 4.33.

(d) All reimbursements payable in accordance with this section shall be paid or secured to the collector before clearance is granted to the vessel.

(R.S. 4206, secs. 431, 457, 458, 46 Stat. 710, as amended, 716, 717; 19 U.S.C. 1431, 1457, 1458, 46 U.S.C. 100)

§ 4.37 Lay order; general order.

(a) Any merchandise or baggage regularly landed but not covered by a permit for its release shall be allowed to remain on the wharf or pier until 5 p.m. on the fifth working day after the day the

---

[67a] See § 8.4 (h) of this chapter for the conditions under which such merchandise and goods removed from a port of intended entry under these or certain other circumstances may subsequently be cleared under a consumption entry which had been filed there for before the merchandise was removed from the port of intended entry.

[68] "It shall be unlawful * * * to unlade the cargo or any part thereof of any vessel elsewhere than at a port of entry: *Provided*, * * * That any vessel laden with merchandise in bulk may proceed after entry of such vessel to any place designated by the Secretary of the Treasury for the purpose of unlading such cargo, under the supervision of customs officers if the collector shall consider the same necessary, and in such case the compensation and expenses of such officers shall be reimbursed to the Government by the party in interest." (Tariff Act of 1930, sec. 447; 19 U. S. C. 1447)

[69] "Whenever any merchandise remains on board any vessel or vehicle from a foreign port more than twenty-five days after the date on which report of said vessel or vehicle was made, the collector may take possession of such merchandise and cause the same to be unladen at the expense and risk of the owners thereof, or may place one or more inspectors or other customs officers on board of said vessel or vehicle to protect the revenue. The compensation and expenses of any such inspector or customs officer for subsistence while on board of such vessel or vehicle shall be reimbursed to the Government by the owner or master of such vessel or vehicle." (Tariff Act of 1930, sec. 457; 19 U. S. C. 1457)

[70] "The limitation of time for unlading shall not extend to vessels laden exclusively with merchandise in bulk consigned to one consignee and arriving at a port for orders, but if the master of such vessel requests a longer time to discharge its cargo, the compensation of the inspectors or other customs officers whose services are required in connection with the unlading shall, for every day consumed in unlading in excess of twenty-five (25) days from the date of the vessel's entry, be reimbursed by the master or owner of such vessel." (Tariff Act of 1930, sec. 458; 19 U. S. C. 1458)

[71] "* * * the master of any vessel laden exclusively with coal, sugar, salt, nitrates, hides, dyewoods, wool, or other merchandise in bulk consigned to one owner and arriving at a port for orders, may destine such cargo 'for orders,' and within 15 days thereafter, but before the unlading of any part of the cargo such manifest may be amended by the master by designating the port or ports of discharge of such cargo, and in the event of failure to amend the manifest within the time permitted such cargo must be discharged at the port at which the vessel arrived and entered. * * *" (Tariff Act of 1930, sec. 431; 19 U. S. C. 1431)

vessel was entered." At the expiration of such period, any merchandise or baggage so remaining shall be deposited in the public stores or a general-order warehouse, except that, at the written request of the owner, agent, or master of the vessel, filed in duplicate on customs Form 3189, and at the risk of the owner of the vessel, the collector may issue a lay order allowing such merchandise or baggage to remain on the wharf or pier properly protected for a further period, which shall be specified in the order. The application for an initial lay order to allow the merchandise to remain on the wharf or pier beyond the fifth working day may be included, if the collector approves, in the space provided therefor in the application made on customs Form 3171 for a permit to lade or unlade.

(b) All merchandise or baggage unladen from a vessel for which no permit has been received before expiration of the original 5-day period, or extension thereof, shall be sent to the public stores or a general-order warehouse and held as unclaimed at the risk and expense of the consignee or owner.[73]

[73] "• • • After the entry, preliminary or otherwise, of any vessel or report of the arrival of any vehicle, the collector may issue a permit to the master of the vessel, or to the person in charge of the vehicle, to unlade merchandise or baggage, but except as provided in subdivision (b) of this section merchandise or baggage so unladen shall be retained at the place of unlading until entry therefor is made and a permit for its delivery granted, and the owners of the vessel or vehicle from which any imported merchandise is unladen prior to entry of such merchandise shall be liable for the payment of the duties accruing on any part thereof that may be removed from the place of unlading without a permit therefor having been issued. Any merchandise or baggage so unladen from any vessel or vehicle for which entry is not made within forty-eight hours exclusive of Sunday and holidays from the time of the enry of the vessel or report of the vehicle, unless a longer time is granted by the collector, as provided in section 484, shall be sent to a bonded warehouse or the public stores and held as unclaimed at the risk and expense of the consignee in the case of merchandise and of the owner in the case of baggage until entry thereof is made." (Tariff Act of 1930, sec. 448 (a); 19 U. S. C. 1448 (a))

[73] "Whenever entry of any imported merchandise is not made within the time provided by law or the regulations prescribed by the Secretary of the Treasury, or whenever entry of such merchandise is incomplete because of failure to pay the estimated duties, or whenever, in the opinion of the collector, entry of such merchandise cannot be made for want of proper documents or other cause, or whenever the collector believes that any merchandise is not correctly and legally invoiced, he shall take the merchandise into his custody and send it to a bonded warehouse or public store, to be held at the risk and expense of the consignee until entry is made or completed and the proper documents are produced, or a bond given for their production." (Tariff Act of 1930, sec. 490 (a); 19 U. S. C. 1490 (a))

[74] See footnote 63, § 4.30.

[75] See footnote 58, § 4.30.

(c) Merchandise unladen after the expiration of the 25-day period prescribed in section 457, Tariff Act of 1930, for which no customs permit has been presented to the discharging inspector, shall be sent forthwith by the collector to the public stores or a general-order warehouse and stored at the expense and risk of the owner of such merchandise.[73]

(d) Merchandise taken into the custoday of the collector pursuant to section 490 (b), Tariff Act of 1930,[74] shall be sent to the public stores or a general-order warehouse after 1 day after the day the vessel was entered, to be held there at the risk and expense of the owner.

(e) Any merchandise which is apt to decrease in weight after importation shall be weighed before it is deposited in the public stores or a general-order warehouse.

(Secs. 448, 457, 490, 46 Stat. 714, 716, 726; 19 U.S.C. 1448, 1457, 1490)

§ 4.38 Release of cargo.

(a) No imported merchandise shall be released from customs custody until a permit to release such merchandise has been granted. Such permit shall be issued by the collector only after the merchandise has been entered and, except as provided for in § 8.28(c) or § 8.59 of this chapter, the duties thereon, if any, have been estimated and paid.

(b) When packages of merchandise bear marks or numbers which differ from those appearing on the manifest of the importing vessel for the same packages and the importer or a receiving bonded carrier, with the concurrence of the importing carrier, makes application for their release under such marks or numbers, either for consumption or for transportation in bond under an entry filed therefor at the port of discharge from the importing vessel, the collector may approve the application upon condition (1) that the contents of the packages be identified with an invoice or transportation entry as set forth below and (2) that the applicant furnish at his own expense any bonded cartage or lighterage service which the granting of the application may require. The application shall be in writing in such number of copies as may be required for local customs purposes. Before permitting delivery of packages under such an application, the collector shall cause such examination thereof to be made as will reasonably identify the contents with the invoice filed with the consumption entry. If the merchandise is entered for transportation in bond without the filing of an invoice, such examination shall be made as will reasonably identify the contents of the packages with the transportation entry.

(Secs. 448, 505, 46 Stat. 714, 732; 19 U.S.C. 1448, 1505)

§ 4.39 Stores and equipment of vessels and crews' effects; unlading or lading and retention on board.

(a) The provisions of § 4.30 relating to unlading under a permit on customs Form 3171 are applicable to the unlading of articles, other than cargo or baggage, which have been laden on a vessel outside the customs territory of the United States, regardless of the trade in which the vessel may be engaged at the time of unlading, except that such provisions do not apply to such articles which have already been entered.

(b) Any articles other than cargo or baggage landed for delivery for consumption in the United States shall be treated in the same manner as other imported articles.[75] A notation as to the landing of such articles, together with the number of the entry made therefor, shall be made on the vessel's store list, but such notation shall not subject the articles to the requirement of being included in a post entry to the manifest.

(c) Bags or dunnage constituting equipment of a vessel may be landed temporarily and reladen on such vessel under customs supervision without entry.

(d) Articles claimed to be sea or ships' stores which are in excess of the reasonable requirements of the vessel on which they are found shall be treated as cargo of such vessel.

(e) Under section 446, Tariff Act of 1930, collectors may permit narcotic drugs, except smoking opium, in reasonable quantities and properly listed as medical stores to remain on board vessels if satisfied that such drugs are adequately safeguarded and used only as medical supplies.

(f) Application for permission to transfer bunkers, stores or equipment as provided for in the proviso to section 446, Tariff Act of 1930, shall be made and the permit therefor granted on customs Form 3171.

(Secs. 432, 446, 46 Stat. 710, 713; 19 U.S.C. 1432, 1446)

§ 4.40 Equipment, etc., from wrecked or dismantled vessels.

Ship's or sea stores, supplies, and equipment of a vessel wrecked either in the waters of the United States or outside such waters, on being recovered and brought into a United States port, and like articles landed from a vessel, dismantled in a United States port shall be subject to the same customs treatment as would apply if the articles were landed from a vessel arriving in the ordinary course of trade. Parts of the hull and fittings recovered from a vessel which arrived in the United States in the course of navigation and was wrecked in the waters of the United States or was dismantled in this country are free of duties and import taxes, but if such articles are recovered from vessels outside the waters of the United States and brought into a United States port, they shall be treated as imported merchandise.

(Sec. 446, 46 Stat. 713; 19 U.S.C. 1446)

§ 4.41 Cargo of wrecked vessel.

(a) Any cargo landed from a vessel wrecked in the waters of the United States or on the high seas shall be subject at the port of entry to the same entry requirements and privileges as the cargo of a vessel regularly arriving in the foreign trade. In lieu of an inward foreign manifest to cover such cargo, the owner, underwriter (if the merchandise has been abandoned to him), or the salvor of the merchandise shall make written application for permission to enter the wrecked cargo, and any such appli-

cant shall be regarded as the consignee of the merchandise for customs purposes."[76]

(b) All such merchandise shall be taken into possession by the collector of the port in which it shall first arrive and be retained in his custody pending entry. If it is not entered by the person entitled to make entry, or is not disposed of pursuant to court order, it shall be subject to sale as unclaimed merchandise.

(c) If such merchandise is from a vessel which has been sunk in waters of the United States for 2 years or more and has been abandoned by the owner, any person who has salvaged the cargo shall be permitted to enter the merchandise in the district in which the vessel was wrecked free of duty upon the facts being established to the satisfaction of the collector at the port of entry."[77] Any other such merchandise is subject to the same tariff classification as like merchandise regularly imported in the ordinary course of trade.

(d) If the merchandise is libeled for salvage,[78] the collector shall notify the United States attorney of the claim of the United States for duties, and request him to intervene for such duties.

(Secs. 310, 483, 46 Stat. 690, 721; 19 U.S.C. 1310, 1483)

[76] "* * * The underwriters of abandoned merchandise and the salvors of merchandise saved from a wreck at sea or on or along a coast of the United States may be regarded as the consignees. * * *" (Tariff Act of 1930, sec. 483; 19 U. S. C. 1483)

[77] "Whenever any vessel laden with merchandise, in whole or in part subject to duty, has been sunk in any river, harbor, bay, or waters subject to the jurisdiction of the United States, and within its limits, for the period of two years and is abandoned by the owner thereof, any person who may raise such vessel shall be permitted to bring any merchandise recovered therefrom into the port nearest to the place where such vessel was so raised free from the payment of any duty thereupon, but under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, sec. 310; 19 U. S. C. 1310)

[78] Salvors have an uncertain interest in the goods salved, dependent upon the decree of a competent tribunal, and have a presumptive right without such decree to possession of merchandise salved by them from abandoned wrecks. The salvors are entitled in either case to make entry of derelict or wrecked goods.

Passengers on Vessels

§ 4.50 Passenger lists.

(a) The master of every vessel arriving at a port of the United States from foreign territory and required to make entry, except a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes, or their connecting or tributary waters,[79] shall submit a passenger and crew list as required by § 4.7 (c). If the vessel is arriving from noncontiguous foreign territory and is carrying steerage passengers, the additional information respecting such passengers required by customs and immigration Form I–418 shall be included therein.

(b) A passenger within the meaning of this part, except § 4.51, is any person carried on a vessel who is not connected with the operation of such vessel, her navigation, ownership, or business.

(Sec. 9, 22 Stat. 189, as amended, sec. 431, 46 Stat. 710, as amended; 19 U.S.C. 1431, 46 U.S.C. 158)

§ 4.51 Examination of vessels with steerage passengers.

The collector (the surveyor at New York) of the port at which any vessel carrying steerage passengers arrives from noncontiguous foreign territory shall direct an officer to make an examination of the vessel and to admeasure the compartments or spaces occupied by passengers[85] other than cabin passengers during the voyage for the purpose of enforcing the Passenger Act of 1882 (46 U.S.C. 151–162). Such admeasurement shall be made in the manner provided by law for admeasuring vessels for tonnage. Such officer shall compare the number of passengers found on board with the list of passengers furnished on customs and immigration Form I–418 by the master to the collector and shall make a report on customs Form 1462 in duplicate to the collector (through the surveyor at New York) who shall forward one copy to the Commissioner of Customs.

(Sec. 11, 22 Stat. 190, as amended; 46 U.S.C. 160)

§ 4.52 Deaths of passengers.

The penalty of $50 provided for in section 10 of the Passenger Act of 1882 (46 U.S.C. 159) shall be imposed upon the master or agent of every vessel bringing steerage passengers from noncontiguous foreign territory unless there is paid to the collector, within 24 hours after the entry of the vessel, $10 for every death by natural disease which occurred on board the vessel among such passengers over 8 years of age during the voyage and prior to the arrival of the vessel within the collection district.

(Sec. 10, 22 Stat. 190; 46 U.S.C. 159)

[79] "Notwithstanding any provision of law to the contrary, no collector of customs shall require a master or owner of a vessel arriving, otherwise than by sea, at a port or place in the United States on the Great Lakes, or their connecting or tributary waters, from a port or place in the Dominion of Canada to furnish a list of passengers on board such vessel." (60 Stat. 882)

[85] For the purposes of this section and the Passenger Act of 1882, the term "passenger" has the meaning stated in § 4.50 (b), except that it does not include any person under 1 year of age nor any person picked up at sea, and two children between 1 and 8 years of age shall be counted as one passenger.

Foreign Clearances

§ 4.60 Vessels required to clear.

(a) Except as otherwise povided for in this section, every vessel bound for a foreign port or ports shall be cleared[90] for a definite port or ports in the order of its itinerary, but an application to clear for a port or place for orders, that is, for instructions to masters as to destination of the vessel, may be accepted if the vessel is in ballast or if any cargo on board is to be discharged in a port of the same country as the port for which clearance is sought.

(b) The following vessels are not required to clear:

(1) A licensed yacht or undocumented American pleasure vessel not engaged in trade nor in any way violating the customs or navigation laws of the United States.[90]

(2) Any vessel under frontier enrollment and license which during a voyage on the Great Lakes will touch at a foreign port only for taking on bunker fuel.[91] (See § 4.82.)

[90] "The master or person having the charge or command of any vessel bound to a foreign port shall deliver to the collector of the district from which such vessel is about to depart a manifest of all the cargo on board the same, and the value thereof, by him subscribed, and shall swear to the truth thereof; whereupon the collector shall grant a clearance for such vessel and her cargo, but without specifying the particulars thereof in the clearance, unless required by the master or other person having the charge or command of such vessel so to do. If any vessel bound to a foreign port (other than a licensed yacht or an undocumented American pleasure vessel not engaged in any trade nor in any way violating the customs or navigation laws of the United States) departs from any port or place in the United States without a clearance, or if the master delivers a false manifest, or does not answer truly the questions demanded of him, or, having received a clearance adds to the cargo of such vessel without having mentioned in the report outwards the intention to do so, or if the departure of the vessel is delayed beyond the second day after obtaining clearance without reporting the delay to the collector, the master or other person having the charge or command of such vessel shall be liable to a penalty of not more than $1,000 or less than $500, or if the cargo consists in any part of narcotic drugs, or any spirits, wines, or other alcoholic liquors (sea stores excepted), a penalty of not more than $5,000 nor less than $1,000 for each offense, and the vessel shall be detained in any port of the United States until the said penalty is paid or secured: * * *" (46 U. S. C. 91)

"Whenever, under any provision or provisions of any statute of the United States, it is made the duty of the masters of vessels to make entry and clearance of same, it shall be lawful for such duties to be performed by any licensed deck officer or purser of such vessel; and when such duties are performed by a licensed deck officer or purser of such vessel, such acts shall have the same force and effect as if performed by masters of such vessels: *Provided*, That nothing herein contained shall relieve the master of any penalty or liability provided by any statute relating to the entry or clearance of vessels." (46 U. S. C. 91a) (For clearance via domestic ports, see § 4.87.)

[91] "Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of entry and clearance fees, as if from or to foreign ports; but such vessel shall, notwithstanding, be required to enter and clear; except that when such vessels are on such voyages on the Great Lakes and touch at foreign ports for the purpose of taking on bunker fuel only, they may be exempted from entering and clearing under such rules and regulations as the Secretary of the Treasury may prescribe, notwithstanding any other provisions of law: *Provided*, That this exception shall not apply to such vessels if,

(3) A vessel exempted from entry by section 441, Tariff Act of 1930.[92] (See § 4.5.)

(4) A vessel of less than 5 net tons which departs from the United States to proceed to a contiguous country otherwise than by sea.

(c) For the purposes of the laws relating to clearance of vessels, the Canal Zone is foreign territory. The certificate of clearance on customs Form 1378 shall be modified by striking out "to a foreign port" and substituting "to the Canal Zone." Vessels which will merely transit the Canal Zone without transacting any business there shall not be required to be cleared because of such transit. A vessel under enrollment and license or license is permitted to trade with the Canal Zone.

(d) In the event that departure is delayed beyond the second day after clearance, the delay shall be reported within 72 hours after clearance to the collector who shall note the fact of detention on the certificate of clearance and on the official record of clearance. When the proposed voyage is canceled after clearance, the reason therefor shall be reported in writing within 24 hours after such cancellation and the certificate of clearance and related papers shall be surrendered.

(e) No vessel shall be cleared for the high seas.[93]

(R.S. 2793, as amended, 4197, as amended; 19 U.S.C. 288, 46 U.S.C. 91, 111, 123)

§ 4.61 Requirements for clearance.

(a) Application for clearance for a vessel intending to depart for a foreign port shall be made orally by or on behalf of the master at the customhouse. The master, licensed deck officer, or purser may appear in person to clear the vessel or the required oaths, related documents, and other papers properly executed by the master or other proper officer may be delivered at the customhouse by the vessel agent or other personal representative of the master. Clearance shall be granted on customs Form 1378.

(b) Before clearance is granted to a vessel bound to a foreign port the collector shall verify compliance with the requirements in respect of the following matters which are more fully stated in the provisions of law or of this part indicated in the list:

(1) Accounting for inward cargo (§ 4.62).
(2) Outward foreign manifests; shippers' export declarations (§ 4.63).
(3) Documentation (§ 4.64).
(4) Verification of nationality and tonnage (§ 4.65).
(5) Verification of inspection (§ 4.66).
(6) Inspection under State laws.[94]
(7) Closed ports or places (§ 4.67).
(8) Crew; passengers (§ 4.68).
(9) Shipping articles and enforcement of Seamen's Act (§ 4.69).
(10) Medicine and slop chests.[95]
(11) Load line regulations.[96]
(12) Carriage of United States securities, etc.[97]
(13) Carriage of mail.[98]
(14) Pratique (§ 4.70).
(15) Inspection of vessels carrying livestock (§ 4.71).
(16) Inspection of meat, meat-food products, and inedible fats (§ 4.72).
(17) Tobacco seed and plants.[99]
(18) Neutrality; exportation of arms and munitions (§ 4.73).
(19) Payment of State and Federal fees.[100]
(20) Orders restricting shipping (§ 4.74).

(c) A new vessel built in the United States for foreign account shall be cleared under a certificate of record, customs Form 1316, in lieu of a marine document.

(d) Clearance shall not be granted to any foreign vessel using the flag of the United States or any distinctive signs or markings indicating that the vessel is an American vessel.[101]

§ 4.62 Accounting for inward cargo.

Inward cargo discrepancies shall be accounted for and adjusted by correction of the manifest, but the vessel may be cleared and the adjustment deferred if the discharging officer's report has not been received. (See § 4.12.)

§ 4.63 Outward foreign manifest; shippers' export declarations.

(a) No vessel shall be cleared for a foreign port unless there has been filed with the collector a manifest on customs Form 1374 covering the complete lading of the vessel, together with such export declarations as are required by pertinent regulations of the Bureau of the Census, Department of Commerce, or unless the vessel is cleared on the basis of a pro forma manifest as provided for in § 4.75.

(b) The list of cargo may be shown on bills of lading attached to the manifest, provided the manifest is completely executed on customs Form 1374, except for particulars as to cargo; and provided also that the bills of lading are securely attached to that form in such manner as to constitute one document; that they are incorporated by suitable reference on the face of the form, such as "Cargo as per bills of lading attached"; and that there is shown on the face of each bill the information required by customs Form 1374 for the cargo covered by that bill.

(c) For each shipment to be exported under an entry or withdrawal for exportation or for transportation and exportation, the outward manifest or bill of lading attached to the manifest and made a part thereof in accordance with paragraph (b) of this section shall clearly show for such shipment the number, date, and class of such customs entry or withdrawal (i. e., T. & E., Wd. T. & E., I. E., Wd. Ex., or Wd. T., as applicable) and the name of the port where the entry or withdrawal was filed if other than the port where the merchandise is laden for exportation.

(d) The master's oath on customs Form 1374 shall be properly executed before the manifest is accepted.

(R.S. 4197, as amended, 4199, 4198, 46 U.S.C. 91, 93, 94)

§ 4.64 Documentation.

No clearance shall be granted to any vessel of the United States bound to a foreign port or place [102] unless it is under register or frontier enrollment and license.

(R.S. 4337; 46 U.S.C. 278)

§ 4.65 Verification of nationality and tonnage.

The nationality and tonnage of a vessel shall be verified by examination of its marine document. If such examination discloses that insufficient tonnage tax was collected on entry of the vessel, no clearance shall be granted until the deficiency is paid.

---

while at such foreign port, they land or take on board any passengers, or any merchandise other than bunker fuel, receive orders, discharge any seamen by mutual consent, or engage any seamen to replace those discharged by mutual consent, or transact any other business save that of taking on bunker fuel." (19 U. S. C. 288.)

[92] See footnote 5, § 4.3.

[93] Collectors may permit vessels to proceed to sea to adjust compasses, try out new machinery, clean tanks, etc., without requiring formal clearance.

[94] The collectors and other officers of the customs shall pay due regard to the inspection laws of the States in which they may respectively act, in such manner that no vessel having on board goods liable to inspection shall be cleared until the master, or other proper person, shall have produced such certificate that all such goods have been duly inspected, as the laws of the respective States may require to be produced to collectors or other officers of the customs." (46 U. S. C. 97)

[95] See 46 U. S. C. 666, 669, 670, and 671.

[96] See 46 U. S. C. ch. 2A and the Coast Guard Load Line Regulations.

[97] "All vessels belonging to citizens of the United States, and bound from any port in the United States to any other port therein, or to any foreign port, or from any foreign port to any port in the United States shall, before clearance, receive on board all such bullion, coin, United States notes and bonds and other securities, as the Government of the United States or any department thereof, or any minister, consul, vice consul, or other agent of the United States abroad, shall offer, and shall securely convey and promptly deliver the same to the proper authorities or consignees, on arriving at the port of destination; and shall receive for such service such reasonable compensation as may be allowed to other carriers in the ordinary transactions of business." (46 U. S. C. 98)

[98] See § 4.63 (b), 18 U. S. C. 1724, and 39 U. S. C. 496.

[99] "It shall be unlawful to export any tobacco seed and/or live tobacco plants from the United States or any Territory subject to the jurisdiction thereof, to any foreign country, port, or place, unless such exportation and/or transportation is in pursuance of a written permit granted by the Secretary of Agriculture. Such permit shall be granted by the Secretary only upon application therefor and after proof satisfactory to him that such seed or plants are to be used for experimental purposes only." (7 U. S. C. 516)

[100] "Previous to a clearance being granted to any vessel, outward bound, the legal fees which shall have accrued on such vessel shall be paid at the offices where such fees are respectively payable; and receipts for the same shall be produced to the collector or other officer whose duty it may be to grant clearances, before a clearance is granted." (46 U.S.C. 100).

[101] "It shall be unlawful for any vessel belonging to or operating under the jurisdiction of any foreign state to use the flag of the United States thereon, or to make use of any distinctive signs or markings, indicating that the same is an American vessel." (22 U. S. C. 454a)

[102] A vessel of the United States may be cleared for Guantanamo Bay Naval Station or the Canal Zone under enrollment and license or license.

§ 4.66 Verification of inspection.

(a) No clearance shall be granted unless the collector is satisfied that a proper certificate of inspection is in force and the vessel is in compliance with such certificate, if the vessel is:

(1) A vessel of the United States required to be inspected, as specified in § 3.54 of this chapter;

(2) A foreign vessel carrying passengers from the United States; or

(3) A foreign sea-going motor vessel of 300 gross tons or over carrying passengers from the United States.

(b) In the case of vessels of foreign nations which are signatories of the International Convention for the Safety of Life at Sea, 1948, an unexpired safety certificate issued or recognized under the authority of that Convention may be accepted in lieu of a certificate of inspection.

(R.S. 4496; 46 U.S.C. 494)

§ 4.67 Closed ports or places.

No foreign vessel shall be granted a clearance or permit to proceed to any port or place from which such vessels are excluded by orders or regulations of the United States Navy Department except with the prior approval of that Department.

§ 4.68 Crew; passengers.

(a) No vessel to which R.S. 4573 applies shall be granted final clearance for a foreign port or a whaling voyage until a crew list is presented to the collector in duplicate on customs and immigration Form I–418. The collector shall certify the duplicate copy and return it to the master.

(b) No vessel shall be granted a clearance while it has on board any citizen of the United States except in accordance with the rules and regulations prescribed by the Secretary of State pursuant to Proclamation 2523 issued by the President on November 14, 1941 (3 CFR, 1943 Cum. Supp.).

(R.S. 4573; 46 U.S.C. 674)

§ 4.69 Shipping articles and enforcement of Seamen's Act.

No vessel of the United States bound for a foreign port outside the British North American possessions, the West Indies, and Mexico shall be granted final clearance until there has been presented to the collector at the port of final departure the shipping articles of the vessel executed before a shipping commissioner on coast guard Form 705, 705–A, or 705–B; nor shall any vessel, bound for a foreign port, be granted final clearance until the collector is satisfied that there has been full compliance with the pertinent requirements of sections 11 and 13 of the Seamen's Act of March 4, 1915 (46 U.S.C. 599, 672), and the coast guard regulations issued thereunder, relating to allotments of wages, the language test, and the crew.

§ 4.70 Pratique.

No clearance shall be granted to a vessel subject to the foreign quarantine regulations of the Public Health Service unless it has been issued a certificate of free pratique or has been remanded to another port in the United States.

§ 4.71 Inspection of vessels carrying livestock.

A proper notice of inspection by the Bureau of Animal Industry, Department of Agriculture, shall be filed before the clearance of a vessel carrying horses, mules, asses, cattle, sheep, swine, or goats.

§ 4.72 Inspection of meat, meat-food products, and inedible fats.

(a) No clearance shall be granted to any vessel carrying meat or meat-food products, as defined and classified by the Meat Inspection Division, Department of Agriculture, until there have been filed with the collector such copies of export certificates concerning such meat or meat-food products as are required by the pertinent regulations of the Meat Inspection Division, Department of Agriculture (9 CFR, Parts 24 and 29).

(b) No clearance shall be granted to any vessel carrying tallow, stearin, oleo oil, or other rendered fat derived from cattle, sheep, swine, or goats for export from the United States, which has not been inspected, passed, and marked by the United States Department of Agriculture, unless the collector is furnished with a certificate by the exporter that the article is inedible.

§ 4.73 Neutrality; exportation of arms and munitions.

(a) Clearance shall not be granted to any vessel if the collector has reason to believe that her departure or intended voyage would be in violation of any provision of the Neutrality Act of 1939 or other neutrality law of the United States,[104] or of any regulation or instruction issued pursuant to any such law.

(b) The collector shall refuse clearance for and detain any vessel manifestly built for warlike purposes and about to depart from the United States with a cargo consisting principally of arms and munitions of war[105] when the number of men intending to sail or other circumstances render it probable that the vessel is intended to commit hostilities against the subjects, citizens, or property or any foreign country with which the United States is at peace, until the decision of the President thereon is received, or until the owners shall have given bond or security in double the value of the vessel and its cargo that she will not be so employed.

(c) A collector shall promptly communicate all the facts to the Bureau if he learns while the United States is at peace that any vessel of a belligerent power which has arrived as a merchant vessel is altering, or will attempt to alter, her status as a merchant vessel so as to become an armed vessel or an auxiliary to armed vessels of a foreign power.

(d) If a collector has reason to believe during the existence of a war to which the United States is not a party that any vessel in his district is about to carry arms, munitions, supplies, dispatches, information, or men to any warship or tender or supply ship of a belligerent nation, he shall withhold the clearance of such vessel and report the facts promptly to the Bureau.

§ 4.74 Transportation orders.

Clearance shall not be granted to any vessel if the collector has reason to believe that her departure or intended voyage would be in violation of any provision of any transportation order, regulation, or restriction issued under authority of the Defense Production Act of 1950 (50 U.S.C. App. 2061–2066).

(R.S. 4197, as amended; 46 U.S.C. 91)

§ 4.75 Incomplete manifest; incomplete export declarations; bond.

(a) If a master desiring to clear his vessel for a foreign port does not have available for filing with the collector a complete cargo manifest[106] or all required shippers' export declarations,[107] the collector may accept in lieu thereof a pro forma manifest on customs Form 1374 if there is on file in his office a bond on customs Form 7567 or 7569 executed by the vessel owner or some other person as attorney in fact of the vessel owner. The form shall be appropriately modified to indicate that it is an incomplete manifest and the oath on the reverse side shall be required to be executed.

(b) Not later than the fourth business day after clearance[108] from each port in

---

[104] See 18 U. S. C. 961–967 and 22 U. S. C. 441–457.

[105] Clearance for vessel shall not be denied for the sole reason that her cargo contains contrabrand of war.

[106] "• • • *Provided*, That in order that the commerce of the United States may move with expedition and without undue delay, the Secretary of the Treasury is hereby authorized to make regulations permitting the master of any vessel taking on cargo for a foreign port or for a port in noncontiguous territory belonging to the United States to file a manifest as hereinbefore provided, and if the manifest be not a complete manifest and it so appears upon such manifest, the collector of customs may grant clearance to the vessel in the case of an incomplete manifest, taking from the owner of the vessel, who may act in the premises by a duly authorized attorney in fact, a bond with security approved by the collector of customs, in the penal sum of $1,000, conditioned that the master or someone for him will file a completed outward manifest not later than the fourth business day after the clearance of the vessel. In the event that the said complete outward manifest be not filed as required by the provisions of this section and the regulations made by the Secretary of the Treasury in pursuance hereof, then a penalty of $50 for each day's delinquency belond the allowed period of four days for filing the completed manifest shall be exacted, and if the completed manifest be not filed within the three days following the four-day period, then for each succeeding day of delinquency a penalty of $100 shall be exacted. Suit may be instituted in the name of the United States against the principal and surety on the bond for the recovery of any penalties that may accrue and be exacted in accordance with the terms of the bond:" (46 U.S.C. 91)

[107] For regulations prescribing the period for carriers to file reports and penalties for untimely filing, see 15 CFR 30.24.

[108] The statutory grace period of 4 days for filing the complete manifest and missing export declarations begins to run on the first day (exclusive of any day on which the customhouse is not open for marine business) following the date on which clearance is granted.

parture the shipping articles of the ves- of 1939 or other neutrality law or

the vessel's itinerary, the master, or the vessel's agent on behalf of the master, shall deliver to the collector at each such port a complete manifest (customs Form 1374) of the cargo laden at such port together with duplicate copies of all required shippers' export declarations for such cargo. The oath of the master or agent on customs Form 1374 shall be properly executed before acceptance. See § 4.63 (b) as to the preparation of outward manifests.

(c) During any period covered by a finding by the President under section 1 of the act of June 15, 1917, as amended (50 U. S. C. 191), that the security of the United States is endangered by reason of actual or threatened war, or invasion, or insurrection, or subversive activity, or of disturbances or threatened disturbances of the international relations of the United States, no vessel shall be cleared for a foreign port until a complete outward foreign manifest and all required export declarations have been filed with the collector, unless clearance in accordance with paragraphs (a) and (b) of this section is authorized by the Commissioner of Customs.[109]

(R.S. 4197, as amended; 46 U.S.C. 91)

CROSS REFERENCE: For authorization of clearances in accordance with § 4.75 (a) and (b) pursuant to § 4.75(c), see T.D. 52676 (16 F.R. 1961) and T.D. 55259 (25 F.R. 10782).

COASTWISE PROCEDURE

§ 4.80 Vessels entitled to engage in coastwise trade.

(a) No vessel shall transport any passenger or merchandise between points in the United States embraced within the coastwise laws, including points within a harbor, unless it is:

(1) Owned by a citizen, as defined in § 3.19 (a) and (b) of this chapter, and is so documented under the laws of the United States as to permit it to engage in the coastwise trade; or

(2) Owned by a citizen, as defined in § 3.19 (a) and (b) of this chapter, is exempt from documentation,[110] and is entitled to or, except for its tonnage, would be entitled to be enrolled and licensed or licensed for the coastwise trade; or

(3) Owned by a partnership or association in which at least a 75 percent interest is owned by such a citizen, is exempt from documentation, and is entitled to or, except for its tonnage, or citizenship of its owner, or both, would be entitled to be enrolled and licensed or licensed for the coastwise trade. (See § 3.19 (d) of this chapter.)

(b) Any vessel of the United States, whether or not entitled under paragraph (a) of this section to engage in the coastwise trade, and any foreign vessel may proceed between points in the United States embraced within the coastwise laws to discharge cargo or passengers laden at a foreign port, to lade cargo or passenger for a foreign port, or in ballast. Cargo laden at a foreign port may be retained on board during such movements.

(c) No vessel owned by a corporation which is a citizen of the United States as defined in § 3.19(a)(4) of this chapter shall be used in any trade other than the coastwise trade and shall not be used in that trade unless it is properly documented for such use or is exempt from documentation and is entitled to or, except for its tonnage, would be entitled to be enrolled and licensed or licensed for the coastwise trade. Such a vessel shall not be documented for nor engage in the foreign trade or the fisheries and shall not transport merchandise or passengers coastwise for hire except as a service for a parent or subsidiary corporation as defined in § 3.1 (h) or (i) of this chapter or while under demise or bareboat charter at prevailing rates for use otherwise than in trade with noncontiguous territory of the United States to a common or contract carrier subject to part III of the Interstate Commerce Act, as amended (49 U.S.C. 901–923), which otherwise qualifies as a citizen of the United States under section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802), and which is not connected, directly or indirectly, by way of ownership or control with such owning corporation.

(R.S. 4311, as amended, sec. 2, 39 Stat. 729, as amended, sec. 27, 41 Stat. 999, as amended, 72 Stat. 1736; 46 U.S.C. 251, 802, 883, 883–1)

§ 4.81 Reports of arrivals and departures in coastwise trade.

(a) No vessel which is enrolled and licensed or licensed for the coastwise trade, registered, or owned by a citizen and exempt from documentation, and which is in ballast or laden only with domestic products or passengers being carried only between points in the United States shall be required to report arrival or to enter when coming into one port of the United States from any other such port, except as provided for in §§ 4.83 and 4.84 of the regulations of this part, nor to obtain a clearance, permit to proceed, or permission to depart when going from one port in the United States to any other such port except when transporting merchandise to a port in noncontiguous territory.[111]

(b) When the facts are as above stated except that the vessel is carrying bonded merchandise, the master shall report its arrival as provided for in § 4.2.

(c) [Reserved]

(d) The traveling crew purchase manifest (curio list) referred to in § 4.85 (b), (c), and (e) shall be deposited with the collector upon arrival at each port in the United States and finally surrendered to the boarding officer or collector at the port where the vessel first departs directly for a foreign port.

(e) Before any foreign vessel shall depart in ballast from any port in the United States for any other such port, the master shall apply to the collector for a permit to proceed and file his declaration in duplicate on customs Form 1385 (subdivision (1) (e)). When the collector grants the permit on subdivision 2 of Form 1385, the duplicate copy of the form shall be returned to the master. The traveling crew purchase manifest (curio list) shall be placed in a sealed envelope addressed to the customs boarding officer at the next domestic port of call and returned to the master for delivery. Within 24 hours after arrival at the second port in the United States, the master shall report his arrival to the collector and shall make entry within 48 hours by filing with the collector the permit to proceed with his declaration executed on subdivision 3 of the form, a list in duplicate of all unentered articles acquired abroad by the officers and members of the crew of the vessel which are still on board and of the stores remaining on board, and the document of the vessel. The traveling crew purchase manifest (curio list) returned by the prior port of call to the master

---

[109] T.D. 55357, 26 F.R. 2965, as amended by T.D. 55396, 26 F.R. 5004, provides that vessels may be cleared pursuant to the procedure provided for in § 4.75 (a) and (b), except that no vessel shall be cleared for any port in Albania, Bulgaria, Communist China (including Manchuria), the Communist-controlled area of Viet-Nam, Czechoslovakia, East Germany (Soviet Zone of Germany and Soviet Sector of Berlin), Estonia, Hungary, Latvia, Lithuania, North Korea, Outer Mongolia, Rumania, Union of Soviet Socialist Republics, Poland (including Danzig), Hong Kong, Macao, or Cuba, until a complete outward foreign manifest and all required export declarations have been filed with the collector of customs.

[110] "No merchandise shall be transported by water, or by land and water, on penalty of forfeiture thereof, between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by section 18 or 808 of this title: * * * *Provided further*, That this section shall not apply to merchandise transported between points within the continental United States, including Alaska, over through routes heretofore or hereafter recognized by the Interstate Commerce Commission for which routes rate tariffs have been or shall hereafter be filed with said Commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities: *Provided further*, That this section shall not become effective upon the Yukon River until the Alaska Railroad shall be completed and the United States Maritime Commission shall find that proper facilities will be furnished for transportation by persons citizens of the United States for properly handling the traffic: * * *." (46 U. S. C. 883)

"If any merchandise is laden at any port or placed in the United States upon any vessel belonging wholly or in part to a subject of a foreign country, and is taken thence to a foreign port or place to be reladen and reshipped to any other port in the United States, either by the same or by another vessel, foreign or American, with intent to evade the provisions relating to the transportation of merchandise from one port or place of the United States to another port or place of the United States in a vessel belonging wholly or in part to a subject of any foreign power, the merchandise shall, on its arrival at such last-named port or place, be seized and forfeited to the United States, and the vessel shall pay a tonnage duty of 50 cents per net ton." (Tariff Act of 1930, sec. 588; 19 U. S. C. 1588)

(See § 3.5 of this chapter for vessels exempt from documentation.)

[111] See § 4.84.

shall be delivered by him to the boarding officer.

(f) The master, licensed deck officer, or purser who enters or clears a vessel, or who obtains permission for a vessel to depart, when required under the provisions of this section or of §§ 4.82, 4.84, 4.85, 4.87, 4.89, or 4.91 of the regulations of this part, may appear in person at the customhouse for that purpose, or any required oaths, related documents, and other papers properly executed by the master or other proper officer may be delivered at the customhouse by the vessel agent or other personal representative of the master.

(R. S. 4132, as amended, 4311, as amended, 4367, 4368, sec. 27, 41 Stat. 999, as amended, secs. 433, 439, 442, 443, 444, 486, 46 Stat. 711, as amended, 712, as amended, 713, 725, as amended; 19 U. S. C. 1433, 1439, 1442, 1443, 1444, 1486, 46 U. S. C. 11, 251, 313, 314, 883)

§ 4.82 Touching at foreign port while in coastwise trade.

(a) A vessel under unlimited register or frontier enrollment and license which, during a voyage between ports in the United States, touches at one or more foreign ports and there discharges or takes on merchandise, passengers, baggage, or mail [112] shall obtain a permit to proceed or clearance at each port of lading in the United States for the foreign port or ports at which it is intended to touch. The outward foreign manifest shall show only the cargo for foreign destination. (See §§ 4.61 and 4.87.)

(b) The master shall also present to the collector a coastwise manifest in triplicate of the merchandise to be transported via the foreign port or ports to the subsequent ports in the United States. It shall describe the merchandise and show the marks and numbers of the packages, the names of the shippers and consignees, and the destinations. The collector shall certify the two copies and return them to the master. Merchandise carried by the vessel in bond under a transportation entry and manifest, customs Form 7512, shall not be shown on the coastwise manifest.

(c) Upon arrival from the foreign port or ports at the subsequent port in the United States, a report of arrival and entry of the vessel shall be made, and tonnage taxes shall be paid unless the vessel is under a frontier enrollment and license. The master shall present inward foreign manifests in accordance with § 4.7 and the certified copies of the coastwise manifest.

(d) All merchandise on the vessel upon its arrival at the subsequent port in the United States is subject to such customs examination and treatment as may be necessary to protect the revenue. Any article on board which is not identified to the satisfaction of the collector, by the coastwise manifest or otherwise, as part of the coastwise cargo, shall be treated as imported merchandise.[113]

(R.S. 2793, as amended, 3126, 3127, 4318, as amended; 19 U.S.C. 293, 294, 46 U.S.C. 123, 258)

§ 4.83 Trade between United States ports on the Great Lakes and other ports of the United States.

(a) If a vessel proceeding from or to a port of the United States on the Great Lakes to or from any other port of the United States via the St. Lawrence River (see § 3.41) is intended to touch at any foreign port and does so touch, it will be subject to the usual requirements for manifesting, clearing, report of arrival, entry, payment of fees for entry and clearance, and tonnage taxes. Vessels which are boarded on the St. Lawrence River by Canadian authorities for the purposes of inspecting the vessel and taking a passing report are not deemed to have touched at a foreign port, provided that no ship's stores are landed or taken aboard and no other business is transacted at the port or place of boarding.

(b) A vessel in the coastwise trade only, which is proceeding from or to a port of the United States on the Great Lakes via the Hudson River and otherwise than by sea, may operate under enrollment and license or frontier enrollment and license and shall not be subject to the requirements for clearance, report of arrival, or entry.

(R.S. 4197, as amended, R.S. 2793, as amended, R.S. 4318, as amended; 46 U.S.C. 91, 111, 123, 258)

§ 4.84 Trade with noncontiguous territory.

(a) No foreign vessel shall depart from a port in noncontiguous territory of the United States for any other port in noncontiguous territory or for any port in any State or the District of Columbia, nor from any port in any State or the District of Columbia for any port in noncontiguous territory, until a clearance for the vessel has been granted. Such a clearance shall be granted in accordance with the applicable provisions of § 4.61 of the regulations of this part, except that the customs Form 1378 shall be modified by striking out "to a foreign port" and substituting "to noncontiguous territory of the United States" or "to the United States," as the case may be, unless the vessel is simultaneously engaged in one or more of the transactions listed in § 4.90(a) (4), (5), or (6) of the regulations of this part. In the latter case, clearance shall be granted only on customs Form 1385; see § 4.90(b) of the regulations of this part. When merchandise is laden on a foreign vessel in noncontiguous territory other than Puerto Rico, for transportation on that vessel to a port in any State, the District of Columbia, or noncontiguous territory, and when this transportation is not forbidden by the coastwise laws, the merchandise may be laden and shipped without shipper's export declarations.

(b) The master of every foreign vessel arriving at a port in any State or the District of Columbia or in noncontiguous territory of the United States from a port in noncontiguous territory to which the coastwise laws do not apply (e.g., Virgin Islands and American Samoa), or arriving at any port in noncontiguous territory to which the coastwise laws do not apply from any place embraced within the coastwise laws, shall report its arrival within 24 hours and make entry for the vessel within 48 hours after its arrival.

(c) No vessel which is not required to clear but which is transporting merchandise from a port in any State or the District of Columbia to any noncontiguous territory of the United States (including Puerto Rico), or from Puerto Rico to any State or the District of Columbia or any other noncontiguous territory, shall be permitted to depart without filing a complete manifest, when required by regulations of the Bureau of the Census (15 CFR Part 30), and all required shipper's export declarations, unless before the vessel departs an approved bond is filed for the timely production of the required documents, as specified in § 30.24 of those regulations (15 CFR 30.24). The oath on the outward manifest required upon a clearance is not required to be taken to obtain permission to depart.

(d) Upon arrival of a vessel of the United States at a port in any State, the District of Columbia, or Puerto Rico from a port in noncontiguous territory other than Puerto Rico, the master shall report its arrival within 24 hours and shall prepare, produce, and file manifests in the form and manner and at the times specified in §§ 4.7 and 4.9 of the regulations of this part but shall not be required to make entry. If the vessel proceeds directly to another port in any State, the District of Columbia, or Puerto Rico, the master shall prepare, produce, and file manifests in the form and manner and at the times specified in § 4.85 of the regulations of this part but no permit to proceed shall be required for the purposes of this paragraph. No cargo shall be unladen from any such

[112] "Any vessel, on being duly registered in pursuance of the laws of the United States, may engage in trade between one port in the United States and one or more ports within the same, with the privilege of touching at one or more foreign ports during the voyage, and land and take in thereat merchandise, passengers and their baggage, and letters, and mails. All such vessels shall be furnished by the collectors of the ports at which they shall take in their cargoes in the United States, with certified manifests, setting forth the particulars of the cargoes, the marks, number of packages, by whom shipped, to whom consigned, at what port to be delivered; designating such merchandise as is entitled to drawback, or to the privilege of being placed in warehouse; and the masters of all such vessels shall, on their arrival at any port of the United States from any foreign port at which such vessel may have touched, as herein provided, conform to the laws providing for the delivery of manifests of cargo and passengers taken on board at such foreign port, and all other laws regulating the report and entry of vessels from foreign ports, and be subject to all the penalties therein prescribed." (19 U. S. C. 293)

[113] "Any foreign merchandise taken in at one port of the United States to be conveyed in registered vessels to any other port within the same, either under the provisions relating to warehouses, or under the laws regulating the transportation coastwise of merchandise entitled to drawback, as well as any merchandise not entitled to drawback, but on which the import duties chargeable by law shall have been duly paid, shall not become subject to any import duty by reason of the vessel in which they may arrive having touched at a foreign port during the voyage." (19 U. S. C. 294)

vessel until manifests have been filed and a permit to unlade has been issued in accordance with the procedure specified in § 4.30 of the regulations of this part.

(e) No vessel shall bring guano to the United States from a guano island appertaining to the United States (see 48 U.S.C. 1411) unless such a vessel is entitled to engage in the coastwide trade.

(f) No vessel owned by a corporation which is a citizen of the United States as defined in § 3.19(a)(4) shall, while under demise or bareboat charter from such corporation, be granted clearance or permitted to depart in trade with noncontiguous territory or with the Canal Zone.

(Secs. 433, 435, 437, 46 Stat. 711, R.S. 4197, as amended, 4367, 4368, 27A, 72 Stat. 1736; 19 U.S.C. 1433, 1435, 1437, 46 U.S.C. 91, 313, 314, 883-1)

§ 4.85 Vessels with residue cargo for domestic ports.

(a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license, arriving from a foreign port with cargo or passengers manifested for ports in the United States other than the port of first arrival, may proceed with such cargo or passengers from port to port provided a vessel bond (customs Form 7567 and 7569) in a suitable amount is on file with the collector at the port of first entry.[115]

(b) Before a vessel proceeds from one domestic port to another with cargo or passengers on board as described in the preceding paragraph, the master shall present to the collector at such port of departure an application in triplicate on customs Form 1385 with subdivision 1 properly executed as an application for a permit to proceed to the next port of call. Each application shall be accompanied by customs Form 3221, Certificate on Vessel Proceeding to Another Port With Foreign Cargo, in duplicate (in triplicate at the first port on the opposite coast when the optional port of delivery procedure provided for by § 4.86 has been followed), with the information called for by the form shown thereon in conformity with the data shown on the oath filed at the first port of entry by the master on customs Form 3251 (see § 4.9 (a)). However, at subsequent ports of departure, the required certificate on customs Form 3221 may bear the following notation in lieu of showing foreign ports and dates of departure therefrom:

For foreign ports and dates of departure therefrom, see attached Form 3221 issued at ----------, the first domestic port of entry. These movements shall be recorded as foreign transactions.

Upon the execution of subdivision 2 of Form 1385 as a permit to proceed, the second and third copies thereof shall be returned to the master for filing at the next domestic port of call. There shall also be returned to the master the vessel's document, if on deposit and a copy of the complete inward foreign manifest of the vessel certified at the first port of entry (referred to hereinafter as the traveling manifest),[116] to which shall be attached one of the copies of each certificate on Form 3221, signed by the collector at the port of issuance. If no inward foreign cargo or passengers are to be discharged at the next port of call, that fact shall be indicated on customs Forms 1385 and 3221 by inserting after the name of the port to which the vessel is to proceed the phrase to "load only" in parentheses. The name of that port will not appear in section (a) of subdivision 1 of Form 1385 or in the list of ports for which cargo or passengers are destined in the body of Form 3221. The part of the traveling manifest, which covers articles acquired abroad by the officers and members of the crew (curio list), together with the unused crew declarations prepared for such articles, shall be placed in a sealed envelope addressed to the customs boarding officer at the next port of call and given to the master of the vessel for delivery.

(c) Upon the arrival of a vessel at the next and each succeeding domestic port with inward foreign cargo or passengers still on board, the master shall report arrival and shall make entry within 24 hours. To make such entry subdivision 3 of customs Form 1385 received by the master on clearance from the preceding port shall be completely executed by him and both copies thereof presented to the collector. The master shall also present to the collector the master's oath on customs Form 3251, the traveling manifest with the certificates on Form 3221 signed by the collectors at the preceding ports,[117] a manifest (in such number of copies as may be required for local customs purposes) of any cargo or passengers on board manifested for discharge at that port (referred to hereinafter as an abstract manifest), or a "pro forma" manifest if no inward foreign cargo or passengers are to be discharged at that port, and lists in duplicate of all unentered articles acquired abroad by the officers and members of the crew which are still on board and of the stores remaining on board. The traveling crew purchase manifest (curio list), together with the crew declarations, furnished by the prior port of call to the master shall be delivered by him to the boarding officer. In the case of a vessel arriving at the first port on the coast with cargo manifested on the opposite coast as being for optional ports of delivery as provided for by § 4.86, a manifest in original only of all inward foreign cargo remaining on board with the ports of actual intended discharge designated shall be furnished by the master on entering his vessel. The traveling manifest shall serve the purpose of a copy of an abstract manifest at the port where it is finally surrendered. The abstract or "pro forma" manifest shall be ready for presentation to the customs boarding officer upon the arrival of the vessel at the port. The "pro forma" manifest shall be on customs Form 7527-A or B bearing the following legend:

Vessel on an inward foreign voyage with residue cargo for ----------. No cargo or passengers for discharge at this port.

No additional vessel bond on customs Form 7567 or 7569 need be filed at subsequent ports of entry.

(d) If any error or omission in the preparation of the Form 3221 is discovered after clearance of the vessel from the port of first arrival, it shall be corrected by the master or agent of the vessel by filing a supplemental oath on customs Form 3251 with the collector at the port where the error or omission is first discovered. That collector shall notify the collector at any preceding port of the correction and forward the supplemental oath to the collector at the port of first arrival.

(e) The original traveling manifest, together with the signed certificates on customs Form 3221 which were attached thereto at preceding domestic ports of call, shall be finally surrendered to the collector at the port of final discharge in the United States of inward foreign cargo for which a substitute traveling manifest has not been issued under § 4.34 (e) for retention in the collector's files, unless residue foreign cargo remains on board for discharge at a foreign port or ports, in which case the original traveling manifest shall be so surrendered to the collector at the final port of departure from the United States with any such cargo on board, regardless of whether the vessel proceeds to an intermediate foreign port under § 4.89. The traveling crew purchase manifest (curio list) shall be finally surrendered to the boarding officer or collector at the port where the vessel first departs directly for a foreign port.

(Sec. 439, 442, 443, 444, 623, 46 Stat. 712 as amended, 713, 759, as amended; 19 U.S.C. 1439, 1442, 1443, 1444, 1623)

---

[115] "• • • Any vessel arriving from a foreign port or place having on board merchandise shown by the manifest to be destined to a port or ports in the United States other than the port of entry at which such vessel first arrived and made entry may proceed with such merchandise from port to port or from district to district for the unlading thereof." (Tariff Act of 1930, sec. 442; 19 U. S. C. 1442)

[116] "Merchandise arriving in any vessel for delivery in different districts or ports of entry shall be described in the manifest in the order of the districts or ports at or in which the same is to be unladen. Before any vessel arriving in the United States with any such merchandise shall depart from the port of first arrival, the master shall obtain from the collector a permit therefor with a certified copy of the vessel's manifest showing the quantities and particulars of the merchandise entered at such port of entry and of that remaining on board." (Tariff Act of 1930, sec. 443; 19 U. S. C. 1443)

"If the master of any such vessel shall proceed to another port or district without having obtained a permit therefor and a certified copy of his manifest, or if he shall fail to produce such permit and certified copy of his manifest to the collector at the port of destination, or if he shall proceed to any port not specified in the permit, he shall be liable to a penalty, for each offense, of not more than $500." (Tariff Act of 1930, sec. 445; 19 U. S. C. 1445)

[117] "Within twenty-four hours after the arrival of such vessel at another port of entry, the master shall report the arrival of his vessel to the collector at such port and shall produce the permit issued by the collector at the port of first arrival, together with the certified copy of his manifest." (Tariff Act of 1930, sec. 444; 19 U. S. C. 1444)

§ 4.86 Intercoastal residue-cargo procedure; optional ports.

(a) When a vessel arrives at an Atlantic or Pacific coast port from a foreign port with cargo for delivery at optional ports on the opposite coast and the master, owner, or agent is unable at that time to designate the specific port or ports of discharge, the manifest filed on entry shall show all such optional ports of discharge. The traveling manifest shall show all the optional ports of delivery. Upon arrival at the first port on the opposite coast, the privilege of optional port of delivery expires and the master, owner, or agent shall then designate the port or ports where the residue cargo is to be discharged as required by section 431, Tariff Act of 1930. For this purpose, a manifest in original only of all inward foreign cargo remaining on board with the ports of actual intended discharge designated shall be furnished by the master along with the other documents required on entry of his vessel. The traveling manifest shall be amended to show the designated ports of discharge and shall be used to verify the abstract manifests surrendered at subsequent ports.

(b) On clearance from the first and each succeeding port on the second coast, the certificate on customs Form 3221 shall show the actual ports of discharge as determined at the first port.

(c) The names of the ports of destination, as designated at the first port of arrival on the second coast, shall be reported to the collector at the port of first arrival on the first coast by endorsement on a certified copy of the complete inward foreign manifest which shall be forwarded by the agent of the vessel.

(Secs. 442, 443, 444, 46 Stat. 713; 19 U.S.C. 1442, 1443, 1444)

§ 4.87 Vessels proceeding foreign via domestic ports.

(a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license may proceed from port to port in the United States to lade cargo or passengers for foreign ports.

(b) When applying for a clearance upon the first and each succeeding port of lading, from the United States, the master of the vessel shall present to the collector a manifest on customs Form 1374 of all the cargo laden for export at that port. It shall indicate clearly all previous ports of lading.

(c) The application for permit to proceed shall be submitted in duplicate on customs Form 1385 with subdivision 1 completely executed. Upon compliance with the applicable provisions of § 4.61 of these regulations, the collector shall execute subdivision 2 of Form 1385 and return one copy to the master, together with the vessel's document if on deposit. The traveling crew purchase manifest (curio list), together with any unused crew declarations, shall be placed in a sealed envelope addressed to the customs boarding officer at the next domestic port of call and returned to the master of the vessel for delivery.

(d) On arrival at the next and each succeeding domestic port, the master shall report arrival within 24 hours. He shall also make entry within 48 hours by presenting the vessel's document, the permit to proceed on customs Form 1385 received by him upon clearance from the last port, and duplicate lists of all unentered articles acquired abroad by the officers and crew of the vessel which are still retained on board and of the stores on board. Subdivision 3 of the Form 1385 shall be completely executed upon delivery to the collector. The traveling crew purchase manifest (curio list) together with any unused crew declarations returned by the prior port of call to the master shall be delivered by him to the boarding officer.

(e) Clearance shall be granted at the final port of departure from the United States in accordance with § 4.61.

(f) If a complete manifest and all required shipper's export declarations are not available for filing before departure of a vessel from any port, clearance on customs Form 1385 (Form 1378 at the last port) may be granted in accordance with § 4.75 of the regulations of this part, subject to the limitation specified in paragraph (c) of that section.

(g) When the procedure outlined in paragraph (f) of this section is followed at any port, the owner or agent of the vessel shall deliver to the collector at that port within 4 business days after the vessel's clearance from that port [118] a manifest on customs Form 1374 and the export declarations to cover the cargo laden for export at that port.

(Secs. 433, 435, 437, 439, 442, 443, 444, 46 Stat. 711, 712, as amended, 713, R.S. 4197, as amended, 4367, 4368; 19 U.S.C. 1433, 1435, 1437, 1439, 1442, 1443, 1444, 46 U.S.C. 91, 313, 314)

§ 4.88 Vessels with residue cargo for foreign ports.

(a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license which arrives at a port in the United States from a foreign port shall not be required to unlade any merchandise manifested for a foreign destination provided a vessel bond (customs Form 7567 or 7569) in a suitable amount is on file with the collector at the port of first entry.[119]

(b) The collector shall designate the items of such merchandise, if any, for which foreign landing certificates [120] will be required.

(c) If the vessel clears directly foreign from the first port of arrival, cargo brought in from foreign ports and retained on board may be declared on the outward foreign manifest (customs Form 1374) by the insertion of the following statement:

All cargo declared on entry in this port as cargo for discharge at foreign ports and so shown on the inward manifest filed upon entry has been and is retained on board.

If any such cargo has been landed, the outward foreign manifest shall describe each item of the cargo from a foreign port which has been retained on board.

(d) If the vessel is proceeding to other ports in the United States with foreign residue cargo on board manifested for discharge at a foreign port or ports, a procedure like that set forth in § 4.85 shall be followed with respect thereto.

(Secs. 442, 622, 623, 46 Stat. 713, 759, as amended; 19 U.S.C. 1442, 1622, 1623)

§ 4.89 Vessels in foreign trade proceeding via domestic ports and touching at intermediate foreign ports.

(a) A vessel proceeding from port to port in the United States in accordance with §§ 4.85, 4.86, or 4.87 may touch at an intermediate foreign port or ports to lade or discharge cargo or passengers. In such a case the vessel shall obtain clearance from the last port of departure in the intermediate foreign port or ports at the United States before proceeding to which it is intended to touch. The outward foreign manifest shall show the cargo for such foreign destination in the manner provided in § 4.88(c).

(b) The master shall also present to the collector the manifest or manifests required by §§ 4.85, 4.86, or 4.87, and obtain a permit to proceed to the next port in the United States at which the vessel will touch.

(c) Upon arrival at the next port in the United States after touching at a foreign port or ports a report of arrival and entry shall be made. The inward foreign manifest shall list the cargo laden at the intermediate foreign port or ports.

(d) The master shall also present to the collector the permit to proceed and the manifests from the last previous port in the United States as provided for in §§ 4.85, 4.86, or 4.87.

§ 4.90 Simultaneous vessel transactions.

(a) A vessel may proceed from port to port in the United States for the purpose of engaging in two or more of the following transactions simultaneously,[121] subject to the limitations hereafter mentioned in this section and the conditions stated in the sections indicated in the list:

(1) Coastwise trade (§ 4.80).
(2) Touching at a foreign port while in coastwise trade (§ 4.82).
(3) Trade with noncontiguous territory of the United States (§ 4.84).
(4) Carriage of residue cargo or passengers from foreign ports (§§ 4.85–4.86).

[118] See footnotes 106 and 107.

[119] "Any vessel having on board merchandise shown by the manifest to be destined to a foreign port or place may, after the report and entry of such vessel under the provisions of this Act, proceed to such foreign port of destination with the cargo so destined therefor, without unlading the same and without the payment of duty thereon. * * *" (Tariff Act of 1930, sec. 442; 19 U. S. C. 1442)

[120] "The Secretary of the Treasury may by regulations require the production of landing certificates in respect of merchandise exported from the United States, or in respect of residue cargo, in cases in which he deems it necessary for the protection of the revenue." (Tariff Act of 1930, sec. 622; 19 U. S. C. 1622)

[121] For the purposes of this part, an inward foreign voyage is completed at the port of final discharge of inbound passengers or cargo, and an outward foreign voyage begins at the port where cargo or passengers are first laden for carriage to a foreign destination.

(5) Carriage of cargo or passengers laden

(5) Carriage of cargo or passengers laden for foreign ports (§ 4.87).
(6) Carriage of residue cargo for foreign ports (§ 4.88).

(b) When a vessel is engaged simultaneously in two or more such transactions, the master shall indicate each type of transaction in which the vessel is engaged in his application for clearance on subdivision 1 of customs Form 1385. The master shall conform simultaneously to all requirements of these regulations with respect to each transaction in which the vessel is engaged.

(c) A foreign vessel is not authorized by this section to engage in the coastwise trade, including trade with noncontinguous territory embraced within the coastwise laws.

(d) A vessel of the United States may engage in transactions (2), (4), (5), or (6) only if under register or frontier enrollment and license. Such a vessel shall not engage in transactions (1) or (3) unless permitted by its register or frontier enrollment and license so to do.

(e) When one vessel bond on customs Form 7567 or 7569 is filed at any port and applicable to the current voyage of the vessel, it shall cover all simultaneous transactions engaged in on that voyage and no other like bond need be filed.

§ 4.91 Diversion of vessel; transshipment of cargo.

(a) If any vessel cleared from one port in the United States for another such port as provided for in §§ 4.81(e), 4.85, 4.87, or 4.88 is, while en route, diverted to a port in the United States other than the one specified in the permit to proceed, customs Form 1385,[122] the owner or agent of the vessel immediately shall give notice of the diversion to the collector who granted the permit, informing him of the new destination of the vessel and requesting him to notify the collector at the latter port. Such notification by the collector shall constitute an amendment of the clearance (permit) previously granted, shall authorize the vessel to proceed to the new destination, and shall be filed by the collector at the latter port with the Form 1385 submitted on entry of the vessel.

(b) If any vessel cleared from a port in the United States for a foreign port as provided for in § 4.60 is diverted, while en route, to a port in the United States other than that from which it was cleared, the owner or agent of the vessel immediately shall give notice of the diversion to the collector who granted the clearance, informing him of the new destination of the vessel and requesting him to notify the collector at the latter port. Such notification by the collector shall constitute a permit to proceed coastwise, and shall authorize the vessel to proceed to the new destination. On arrival at the new destination, the master shall report arrival within 24 hours. He shall also make entry within 48 hours by presenting (1) the vessel's document, (2) the foreign clearance on Form 1378 granted by the collector at the port of departure, (3) a certificate that when the vessel was cleared from the last previous port in the United States there were on board cargo and/or passengers for the ports named in the foreign clearance certificate only and that additional cargo or passengers (have) (have not) been taken on board or discharged since such clearance was granted (specifying the particulars if any passengers or cargo were taken on board or discharged), (4) a list in duplicate of all unentered articles acquired abroad by the officers and crew of the vessel which are still retained on board, and (5) a list in duplicate of the stores on board.

(c) In a case of necessity, a collector may grant an application on customs Form 3171 of the owner or agent of an established line for permission to transship[123] all cargo and passengers from one vessel of the United States to another such vessel under customs supervision, if the first vessel is transporting residue cargo for domestic or foreign ports or is on an outward foreign voyage or a voyage to noncontiguous territory of the United States, and is following the procedure prescribed in §§ 4.85, 4.87, or 4.88. When inward foreign cargo or passengers are so transshipped to another vessel, a separate traveling manifest with a separate certificate on customs Form 3221 attached shall be used for the transshipped cargo or passengers, whether or not the forwarding vessel is also carrying other residue cargo or passengers. An appropriate cross reference shall be made on customs Form 3221 to show whether any other traveling manifest is being carried forward on the same vessel.

§ 4.92 Towing.

The prohibition against the use of foreign vessels in towing operations[124] shall be enforced with respect to such operations between any points embraced within the coastwise laws.

(R.S. 4370, as amended; 46 U.S.C. 316)

General

§ 4.95 Records of entry and clearance of vessels.

Permanent records shall be prepared at each customhouse of all entries of vessels on customs Form 1400 and of all clearances and permits to proceed on customs Form 1401.[130] When the number of transactions is small, such records may be prepared on the short forms (customs Forms 1400–A and 1401–A). Whenever a vessel is diverted, as provided for in § 4.91 (a) or (b), customs Form 1401 or 1401–A shall be amended to show the new destination. These records shall be open to public inspection.

§ 4.96 Fisheries.

(a) As used in this section:

(1) The term "convention vessel" means a Canadian fishing vessel which, at the time of its arrival in the United States, is engaged only in the North Pacific halibut fishery and which is therefore entitled to the privileges provided for by the Halibut Fishing Vessels Convention between the United States and Canada signed at Ottawa on March 24, 1950 (T. D. 52862);

(2) The term "nonconvention fishing vessel" means any vessel other than a convention vessel which is employed in whole or in part in fishing at the time of its arrival in the United States and

(i) Which is documented under the laws of a foreign country,

(ii) Which is undocumented, of 5 net tons or over, and owned in whole or in part by a person other than a citizen of the United States, or

(iii) Which is undocumented, of less than 5 net tons, and owned in whole or in part by a person who is neither a citizen nor a resident of the United States;

---

[122] See footnotes 106 and 107.

(Tariff Act of 1930, sec. 622; 19 U. S. C. 1622)

[122] See § 4.33.

[123] See § 4.81.

[124] "It shall be unlawful for any vessel not wholly owned by a person who is a citizen of the United States within the meaning of the laws respecting the documentation of vessels and not having in force a certificate of registry, a certificate of enrollment, or a license, issued pursuant to this title, or a certificate of award of number issued pursuant to section 288 of this title, to tow any vessel other than a vessel of foreign registry, or a vessel in distress, from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same, either directly or by way of a foreign port or place, or to do any part of such towing, or to tow any such vessel, from point to point within the harbor of such places. The owner and master of any vessel towing another vessel in violation of the provisions of this section shall each be liable to a fine of not less than $250 nor more than $1,000, which fines shall constitute liens upon the offending vessel enforceable through the district court of the United States for any district in which such vessel may be found, and clearance shall not be granted to such vessel until the fines have been paid. The towing vessel shall also be further liable to a penalty of $50 per ton on the measurement of every vessel towed in violation of this section, which sum may be recovered by way of libel or suit." (46 U. S. C. 316 (a))

"Any foreign railroad company or corporation, whose road enters the United States by means of a ferry, tugboat, or towboat, may own such vessel and operate the same in connection with the water transportation of the passenger, freight, express, baggage, and mail cars used by such road, together with the passengers, freight, express matter, baggage, and mails transported in such cars, without being subject to any other or different restrictions than those imposed by law on any vessel of the United States entering ports of the United States from ports in the same foreign country: *Provided*, That except as authorized by section 883 of this title, such ferry, tugboat, or towboat shall not, under penalty of forfeiture, be used in connection with the transportation of any merchandise shipped from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same." (46 U. S. C. 316 (c))

"Every undocumented vessel, operated in whole or in part by machinery owned in the United States and found on the navigable waters thereof, except public vessels, and vessels not exceeding sixteen feet in length measured from end to end over the deck excluding sheer, temporarily equipped with detachable motors, shall be numbered. * * *" (46 U. S. C. 288)

(See § 3.19 (a) of this chapter).

[130] For regulations of the Bureau of the Census relating to statistics from these records, see 15 CFR Part 30.

(3) The term "nonconvention cargo vessel" means any vessel which is not employed in fishing at the time of its arrival in the United States, but which is engaged in whole or in part in the transportation of fish or fish products [121a] and

(i) Which is documented under the laws of a foreign country or

(ii) Which is undocumented and owned by a person other than a citizen of the United States; and

(4) The term "fishing" means the planting, cultivation, or taking of fish, shell fish, marine animals, pearls, shells, or marine vegetation, or the transportation of any of those marine products to the United States by the taking vessel or another vessel under the complete control and management of a common owner or bareboat charterer.

(b) Except as provided for in paragraph (d), (e), or (g) of this section, no vessel employed in fishing, other than a vessel of the United States or a vessel of less than 5 net tons owned in the United States, shall come into a port or place in the United States.[121b]

(c) A vessel of the United States to be employed in fishing may be enrolled and licensed, or licensed, depending upon its size, or registered. If registered, the vessel must be entitled to be licensed or enrolled and licensed for the fisheries. (See §§ 3.2 and 3.42 of this chapter.)

(d) A convention vessel may come into a port of entry on the Pacific coast of the United States, including Alaska, to land its catch of halibut and incidentally-caught sable fish, or to secure supplies, equipment, or repairs. Such a vessel may come into any other port of entry or, if properly authorized to do so under § 1.2 (b) of this chapter, into any place other than a port of entry, for the purpose of securing supplies, equipment, or repairs only, but shall not land its catch. A convention vessel which comes into the United States as provided for in this paragraph shall comply with the usual requirements applicable to foreign vessels arriving at and departing from the United States.

(e) A nonconvention fishing vessel may come into a port of entry in the United States or, if granted permission under § 1.2 (b) of this chapter, into a place other than a port of entry for the purpose of securing supplies, equipment, or repairs, but shall not land its catch. A nonconvention fishing vessel which comes into the United States as provided for in this paragraph shall comply with the usual requirements applicable to foreign vessels arriving at and departing from ports of the United States.

(f) A nonconvention cargo vessel, although not prohibited by by law from coming into the United States, shall not be permitted to land in the United States its catch of fish taken on the high seas or any fish or fish products taken on board on the high seas from a vessel employed in fishing or in the processing of fish or fish products, but may land fish taken on board at any place other than the high seas upon compliance with the usual requirements. Before any such fish may be landed the master shall satisfy the collector that the fish were not taken on board on the high seas by presenting declarations of the master and two or more officers or members of the crew of the vessel, of whom the person next in authority to the master shall be one, or other evidence acceptable to the collector which establishes the place of lading to his satisfaction.

(g) A convention vessel, a nonconvention fishing vessel, or a nonconvention cargo vessel which arrives in the United States in distress shall be subject to the usual requirements applicable to foreign vessels arriving in distress. While in the United States, supplies, equipment, or repairs may be secured, but, except as specified in the next sentence, fish shall not be landed unless the vessel's master, or other authorized representative of the owner, shows to the satisfaction of the collector that it will not be possible, by the exercise of due diligence, for the vessel to transport its catch to a foreign port without spoilage, in which event the collector may allow the vessel, upon compliance with all applicable requirements, to land, transship, or otherwise dispose of its catch. Nothing herein shall prevent a convention vessel arriving in distress from landing its catch of halibut and incidentally-caught sable fish at a port of entry on the Pacific coast, including Alaska, upon compliance with normal customs procedures, nor prevent a foreign cargo vessel arriving in distress from landing, upon compliance with normal customs procedures, its cargo of fish taken on board at any place not on the high seas.

(h) A registered vessel may be cleared for a whaling voyage [121c] under the same terms and conditions as though it were enrolled and licensed for the whale fishery.

(R. S. 4132, as amended, 4311, as amended, 4339; 46 U. S. C. 11, 251, 280)

§ 4.97 Salvage vessels.

(a) Only a vessel of the United States, a numbered motorboat owned by a citizen,[122] or a vessel operating within the purview of paragraph (d) or (e) of this section, shall engage in any salvage operation in territorial waters of the United States unless an application addressed to the Commissioner of Customs to use another specified vessel in a completely described operation has been granted.[123]

(b) Upon receipt of such an application, the Commissioner of Customs will cause an investigation to be made immediately to determine whether a suitable vessel of the United States or a suitable numbered motorboat owned by a citizen is available for the operation. If he finds that no such vessel is available and that the facts otherwise warrant favorable action, he will grant the application.

(c) If the application is granted, the applicant shall make a full report of the operation as soon as possible to the collector of customs at the port nearest the place where the operation was conducted.

(d) A Canadian vessel may engage in salvage operations on any vessel in any territorial waters of the United States in which Canadian vessels are permitted to conduct such operations by article II of the treaty between the United States and Great Britain signed on May 18, 1908,[124] or by section 725, title 46, United States

---

[121a] "* * * Except as otherwise provided by treaty or convention to which the United States is a party, no foreign-flag vessel shall, whether documented as a cargo vessel or otherwise, land in a port of the United States its catch of fish taken on board such vessels on the high seas or fish products processed therefrom, or any fish or fish products taken on board such vessel on the high seas from a vessel engaged in fishing operations or in the processing of fish or fish products." (46 U. S. C. 251)

[121b] "Vessels of twenty tons and upward, enrolled in pursuance of sections 251–255, 258, 259, 262–280, 293, 306–316, 318, 321–330 and 333–335 of this title, and having a license in force, or vessels of less than twenty tons, which, although not enrolled, have a license in force, as required by such sections, and no others, shall be deemed vessels of the United States entitled to the privileges of vessels employed in the coasting trade or fisheries. * * *" (46 U. S. C. 251)

[121c] "All vessels which may clear with registers for the purpose of engaging in the whale fishery shall be deemed to have lawful and sufficient papers for such voyages, securing the privileges and rights of registered vessels, and the privileges and exemptions of vessels enrolled and licensed for the fisheries." (46 U. S. C. 280)

[122] See § 3.19 (a) of this chapter.

[123] "No foreign vessel shall, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico, except when authorized by a treaty or in accordance with the provisions of section 725 of this title: *Provided, however,* That if, on investigation, the Secretary of the Treasury is satisfied that no suitable vessel wholly owned by a person who is a citizen of the United States and documented under the laws of the United States or numbered pursuant to section 288 of this title, is available in any particular locality he may authorize the use of a foreign vessel or vessels in salvaging operations in that locality and no penalty shall be incurred for such authorized use." (46 U. S. C. 316 (d))

"Nothing in this section shall be held or construed to prohibit or restrict any assistance to vessels or salvage operations authorized by Article II of the treaty between the United States and Great Britain 'concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage' signed at Washington, May 18, 1908 (35 Stat. 2036), or by the treaty between the United States and Mexico 'to facilitate assistance to and salvage of vessels in territorial waters,' signed at Mexico City, June 13, 1935 (49 Stat. 3359)." (46 U. S. C. 316 (e))

[124] "The High Contracting Parties agree that vessels and wrecking appliances, either from the United States or from the Dominion of Canada, may salve any property wrecked and may render aid and assistance to any vessels wrecked, disabled or in distress in the waters or on the shores of the other country in that portion of the St. Lawrence River through which the International Boundary line extends, and, in Lake Ontario, Lake Erie, Lake St. Clair, Lake Huron, and Lake Superior, and in the Rivers Niagara, Detroit, St. Clair, and Ste. Marie, and the Canals at Sault Ste. Marie, and on the shores and in the waters of the other country along the Atlantic and Pacific Coasts within a distance

Code.[125] If any such vessel engages in a salvage operation in territorial waters of the United States, the owner or master of the vessel shall make a full report of the operation as soon as possible to the collector of customs at the port nearest the place where the operation was conducted.

(e) A Mexican vessel may engage in a salvage operation on a Mexican vessel in any territorial waters of the United States in which Mexican vessels are permitted to conduct such operations by the treaty between the United States and Mexico signed on June 13, 1935.[126]

(R.S. 4370, as amended; 46 U.S.C. 316)

§ 4.98 Navigation fees.

(a) A table of navigation fees on customs Form 1010 shall be posted in customs offices. The respective fees shall be designated in correspondence and reports by numbers as follows:

Fee No. and service

1 Entry of vessel, including American, from foreign port (19 U.S.C. 58):
   (*a*) Less than 100 net tons.
   (*b*) 100 net tons and over.
2 Clearance of vessel, including American, to foreign port (19 U.S.C. 58):
   (*a*) Less than 100 net tons.
   (*b*) 100 net tons and over.
3 Issuing permit to foreign vessel to proceed from district to district, and receiving the manifest (46 U.S.C. 329, 330).
4 Receiving manifest of foreign vessel on arrival from another district and granting a permit to unlade (46 U. S. C. 329, 330).
5 Receiving post entry (19 U. S. C. 58, 46 U. S. C. 330).
6 Changing name of vessel (46 U. S. C. 53):
   (*a*) Less than 100 gross tons.
   (*b*) 100 and not exceeding 499 gross tons.
   (*c*) 500 and not exceeding 999 gross tons.
   (*d*) 1,000 and not exceeding 4,999 gross tons.
   (*e*) 5,000 gross tons and over.
7 (*a*) Recording bill of sale, conveyance, mortgage, or assignment of mortgage; or
   (*b*) Furnishing certified copy of any bill of sale, conveyance, mortgage, assignment of mortgage, notice of claim of lien, or certificate of discharge in respect to such vessel; or
   (*c*) Furnishing certified copy of record at former home port; or
   (*d*) Furnishing certificate setting forth names of owners, the interest held by each owner, material facts in each bill of sale, conveyance, mortgage, assignment of mortgage, lien, or encumbrance; or
   (*e*) Furnishing certificate that there are no liens or encumbrances (46 U. S. C. 927).
8 Receiving official bond not otherwise provided for (19 U. S. C. 58).
9 Certifying payment of tonnage tax and certifying admeasurement, both for foreign vessels only (19 U. S. C. 58).
10 Furnishing copy of official document, including marine document, certified outward foreign manifest, and others not elsewhere enumerated (19 U. S. C. 58).
11 Registering a house flag or funnel mark, or both (5 U. S. C. 140; T. D. 53385).

(b) Fee 1 shall be collected at the first port of entry only. It shall not be collected from a vessel entering directly from a port in noncontiguous territory of the United States nor from one entering at a port on the northern, northeastern, or northwestern frontier otherwise than by sea.

(c) Fee 2 shall be collected at the final port of departure from the United States. It shall be collected from a yacht or public vessel which obtains a clearance, but shall not be collected from a vessel clearing directly for a port in noncontiguous territory of the United States nor from one clearing from a port on the northern, northeastern, or northwestern frontier otherwise than by sea. It shall be collected only upon the first clearance each year of a vessel making regular daily trips between a port of the United States and a port in Canada wholly upon interior waters not navigable to the ocean.

(d) Fee 3 shall be collected for granting a permit to a foreign vessel to proceed to another customs district, but not for a permit to proceed to a port in the same district. It shall be collected from a foreign vessel clearing directly for a port in noncontiguous territory of the United States outside its customs territory. This fee shall not be collected in the case of a foreign vessel proceeding on a voyage by sea from one district in the United States to another such district via a foreign port. Only one fee shall be collected in case of simultaneous vessel transactions.

(e) Fee 4 shall be collected for receiving the manifest of a foreign vessel arriving from another customs district, but not arriving from a port in the same district. It shall be collected from a foreign vessel entering directly from a port in noncontiguous territory of the United States outside its customs territory. This fee shall not be collected in the case of a foreign vessel which arrives in one district in the United States from another such district on a voyage by sea via a foreign port. Only one fee shall be collected in case of simultaneous vessel transactions.

(f) Fee 6 shall be collected when the application is approved.

(g) In computing the amounts to be collected under Fee 7:

(1) The word "folio" shall mean 100 words, counting each figure as a word (44 U. S. C. 326). No charge shall be made for fractions of a folio.

(2) When any instrument presented is not on an appropriate customs form, the number of folios shall be computed under the pertinent one of the following formulas:

(i) Except as specified in subdivision (iii) of this subparagraph, if the instrument is of less than 20 pages, the total number of lines shall be determined; the number of words in 10 percent of the lines of each size and style of writing or printing (handwritten, pica typewritten, elite typewritten, printed, etc.; full measure, indented, etc.) shall be counted, using lines of average length; the average number of words per line of each size and style of writing or printing shall be multiplied by the total number of lines of such size and style in order to arrive at the total number of words; and that total shall be divided by 100 in order to ascertain the total number of folios.

(ii) Except as specified in subdivision (iii) of this subparagraph, if the instrument is of 20 pages or more, the number of words on a representative sample of pages (10 percent of the total, using pages of average width and length) shall be counted; the average number of words per page shall be multiplied by the number of pages in order to arrive at the total number of words; and that total shall be divided by 100 in order to ascertain the total number of folios.

(iii) If any such instrument contains a recitation or copy of a marine document of a vessel, whether reproduced by photostatic process or otherwise, the number of folios in such recitation or copy shall not be determined as specified in subdivision (i) or (ii) of this subparagraph, but instead each such recitation or copy shall be deemed to contain 5 folios. The number of folios contained in such recitation or copies, determined in accordance with this subdivision, shall be added to the number of folios contained in the remainder of such instrument, ascertained in accordance with subdivision (i) or (ii) of this subparagraph, as the case may be, and the sum shall be the total number of folios in that instrument.

(3) When any instrument presented is on one of the following customs forms and contains only such written matter as is customarily used and necessary to complete and fill in the blanks on the form or when it contains such matter and other written matter interpolated or appended of less than 200 words, the number of folios in the instrument shall

---

of thirty miles from the International Boundary on such Coasts.

"It is further agreed that such reciprocal wrecking and salvage privileges shall include all necessary towing incident thereto, and that nothing in the Customs, Coasting or other laws or regulations of either country shall restrict in any manner the salving operations of such vessels or wrecking appliances.

"Vessels from either country employed in salving in the waters of the other shall, as soon as practicable afterwards, make full report at the nearest custom house of the country in whose waters such salving takes place." (35 Stat. 2036)

[125] "Canadian vessels and wrecking appurtenance may render aid and assistance to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to the Dominion of Canada.

"This section shall be construed to apply to the canal and improvement of the waters between Lake Erie and Lake Huron, and to the waters of the Saint Mary's River and Canal: * * *." (46 U. S. C. 725)

The waters of Lake Michigan are not contiguous to the Dominion of Canada within the meaning of this statute.

[126] "The High Contracting Parties agree that vessels and rescue apparatus, public or private, of either country, may aid or assist vessels of their own nationality, including the passengers and crews thereof, which may be disabled or in distress on the shores or within the territorial waters of the other country within a radius of seven hundred and twenty nautical miles of the intersection of the International Boundary Line and the coast of the Pacific Ocean, or within a radius of two hundred nautical miles of the intersection of the International Boundary Line and the coast of the Gulf of Mexico." (49 Stat. 3360)

be deemed to be in accordance with the following schedule:

(i) Bill of sale of vessel on customs Form 1340, 1342, 1344, 1346, or 1356: 10 folios.

(ii) Mortgage of vessel on customs Form 1348—If marine document is not recited: 15 folios. If marine document is recited: 20 folios.

(iii) General Index or Abstract of Title on customs Form 1332: 5 folios.

(iv) General Index or Abstract of Title—Continuation Sheet on customs Form 1332–A: 1 folio for each two instruments noted thereon.

(v) Certificate of Ownership on customs Form 1330: 5 folios.

(4) When any such instrument is prepared on a customs form and contains such written matter as is customarily used and necessary to complete and fill in the blanks on the form and other written matter interpolated or appended of 200 or more words, the number of folios in the instrument shall be computed on the basis of the above schedule for the printed forms, plus an additional amount for all the written matter other than such as is used and necessary to complete and fill in the blanks on the form in the customary manner, which amount shall be computed as though that portion of the instrument were not on a customs form.

(5) The number of folios in a certified copy of any instrument furnished under Fee 7, Service (b), shall be computed in the same manner as in the case of the original, except that the number of folios in a certificate of discharge on customs Form 1363 shall be deemed to be 5, unless the form contains interpolated or appended written matter of 200 or more words in addition to such written matter as is customarily used and necessary to complete and fill in the blanks on the form, in which case the fee shall be computed on the basis of a charge for 3 folios for the printed form, plus an additional amount for all the written matter other than such as is used and necessary to complete and fill in the blanks on the form in the customary manner, which amount shall be computed as though that portion of the instrument were not on a customs form.

(h) Fee 7 applies only to services covered by the Ship Mortgage Act, 1920 (46 U. S. C. 921 (b), 923, 926 (c), and 927), all of which are included in the descriptions opposite that fee number in the table set forth in paragraph (a) of this section. It shall not be collected for a duplicate certified copy of the record at the former home port issued in accordance with § 3.33 (l) of this chapter.

(i) Fee 8 is collected principally from vessels in the Alaska trade.

(j) Fee 9 shall be collected from foreign vessels only.

(k) Fee 10 shall be collected for each copy of any official document, whether certified or not, furnished to any person other than a Government officer.

(Sec. 501, 65 Stat. 290, sec. 7, 35 Stat. 426, as amended; 5 U.S.C. 140, 46 U.S.C. 49)

PART 5—CUSTOMS RELATIONS WITH CONTIGUOUS FOREIGN TERRITORY

Sec.

5.1 Imports from contiguous countries; manifests; report of arrival.
5.2 Vessels and vehicles; unlading and lading; permits; overtime services.
5.3 Vessels under frontier enrollment and license; repairs and equipment; sea and saloon stores and supplies.
5.4 Inspection of baggage from contiguous foreign country.
5.5 Examination of baggage in foreign territory.
5.6 Merchandise arriving from a contiguous foreign country in sealed vessels or vehicles.
5.7 Supplies on international trains.
5.8 Merchandise in transit between ports in the United States through contiguous foreign territory; procedure at port of exit or lading on vessel.
5.9 Transshipment; storage; feeding and watering livestock in Canada.
5.10 Diversion or delay in foreign territory; procedure and treatment at port of reentry or discharge from vessel.
5.11 Merchandise in transit through the United States between ports of Canada or Mexico; procedure.
5.12 Locomotives; railroad equipment; when entry required.
5.13 Stolen automobiles, trailers, and airplanes returned to United States; entry not required.
5.15 Buildings on boundary; merchandise deposited therein.

AUTHORITY: §§ 5.1 to 5.15 issued under R. S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat 72; 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 5.1 Imports from contiguous countries; manifests; report of arrival.

(a) The master or person in charge of every vessel of less than 5 net tons which is carrying baggage or other merchandise and arrives in the United States from a contiguous country otherwise than by sea [1] and the person in charge of every vehicle which arrives in the United States from a contiguous country, whether or not carrying merchandise, shall report arrival to the collector. Baggage and other merchandise carried in either such case shall be listed on a manifest as provided for by paragraph (b) of this section, which shall be filed with the collector when the arrival is reported.[2] A vessel of less than 5 net tons arriving in the United States from a contiguous country otherwise than by sea is not subject to the provisions of sections 433, 434, 435, or 448 (a), Tariff Act of 1930, and no report of the arrival of such a vessel is required if it is not carrying any baggage or other merchandise.

(b) Except as otherwise specifically provided for in this paragraph or as may be specially authorized by the Bureau, the manifest shall be filed in original only. It shall be certified by the master of the vessel or person in charge of the vehicle. Customs Form 7533–A shall be used to manifest baggage arriving in baggage cars. When the procedure for the use of sticker labels in lieu of sealing and special manifesting, authorized by § 5.5 (d) is followed, the total number of pieces of baggage examined and passed in foreign territory by the United States customs officer who will release them upon arrival in the United States may be shown on customs Form 7533–A in lieu of filling in the first four columns of such form. Customs Form 5119 or 5119–A may be used in lieu of other forms of customs manifest when the value of the

[1] For the reporting, entry, and clearance requirements applicable to vessels of less than 5 net tons which arrive in the United States from, or depart for, a contiguous country by sea, and to vessels of 5 net tons or over, whether arriving or departing by sea or otherwise, see §§ 4.2, 4.3, and 4.60 of this chapter.

[2] "The master of any vessel of less than five net tons carrying merchandise and the person in charge of any vehicle arriving in the United States from contiguous country, shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which such vessel or vehicle shall cross the boundary line or shall enter the territorial waters of the United States, and if such vessel or vehicle have on board any merchandise, shall produce to such customs officer a manifest as required by law, and no such vessel or vehicle shall proceed farther inland nor shall discharge or land any merchandise, passengers, or baggage without receiving a permit therefor from such customs officer. Any person importing or bringing merchandise into the United States from a contiguous country otherwise than in a vessel or vehicles shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which he shall cross the boundary line and shall present such merchandise to such customs officer for inspection." (Tariff Act of 1930, sec. 459, as amended; 19 U. S. C. 1459)

merchandise does not exceed $250. Customs Form 7523 also may be used in lieu of other forms of customs manifests for merchandise which is entered on that form. In all other cases, except as provided for by paragraph (c) of this section and § 5.11 (c), the manifest required from a vehicle, or from a vessel of less than 5 net tons arriving in the United States from a contiguous country otherwise than by sea, shall be on customs Form 7533, except that when baggage arrives in the United States in the actual possession of a traveler, his declaration therefor shall be accepted in lieu of a manifest. For manifesting required in the case of any vessel which is required to make entry, see § 4.7 (a) of this chapter. If a shipment not exceeding $250 in value is unconditionally free of duty and not subject to quota or to internal-revenue tax and arrives on a vessel which is required to enter, the inward foreign manifest of the merchandise, if presented in duplicate, may be used as an entry therefor, if no merchandise for a different entrant is listed on the same page of the manifest, and if the importer notes on the manifest the country of exportation of the merchandise, its value, and the provision of law under which free entry is claimed and furnishes evidence of the right to make entry as required by § 8.6 of this chapter. Merchandise imported by a person otherwise than in a vessel or vehicle need not be covered by a manifest, but the importer shall report his arrival, present such merchandise for inspection, and make entry therefor, if required, in accordance with the applicable laws and regulations.

(c) If a shipment not exceeding $250 in value consists of articles of American origin entered free of duty under the provisions of § 10.1(f) of this chapter and is imported in a vehicle, customs Form 3311, in duplicate, used in entering the goods, may also be accepted in lieu of a manifest, provided the importer furnishes evidence of the right to make entry as required by § 8.6 of this chapter. When all the merchandise arriving on one vessel or vehicle is entered immediately upon arrival either under a single immediate transportation entry or a single transportation and exportation or direct exportation entry, the copy of customs Form 7512 to be retained at the port of first arrival may be adapted for use as a combined inward foreign manifest and in-bond transportation or direct exportation entry. When Customs Form 7512 is to be so used, the foreign port of lading and the name of the shipper shall be shown thereon in every case and a certificate in the following form shall be executed by the master of the vessel or the person in charge of the vehicle:

This entry correctly covers all the merchandise on the vessel or vehicle, of which I am the master or person in charge, when it first arrived in the United States. If any error in the quantity, kind of articles, or other details, is discovered, I will immediately report the correct information to the collector of customs.

The above prescribed form of certificate may be legibly stamped on the form or on a separate paper securely attached thereto.

(d) The penalty of $100 for failure to report and the penalty of $100 for proceeding inland without a permit, imposed by section 460, Tariff Act of 1930, as amended,[3] apply in every case where a vehicle is involved whether or not the vehicle is carrying merchandise, passengers, or baggage. Such penalties apply with respect to vessels of less than 5 net tons only when such vessels are carrying merchandise or baggage.

(Secs. 459, 460, 498 (a), 46 Stat. 717, as amended, 728, as amended; 19 U. S. C. 1459, 1460, 1498 (a)).

§ 5.2 Vessels and vehicles; unlading and lading; permits; overtime services.[3a]

(a) No passenger or merchandise (including baggage) shall be landed or discharged at any time from any vessel of less than 5 net tons which arrives from a contiguous country, by sea or otherwise, or from a vehicle which arrives from such a country, until permission therefor has been granted by the customs officer to whom the arrival of the vessel or vehicle has been duly reported. The collector may require that the permission and an application therefor be in writing on customs Form 3851, appropriately modified for the purpose. The foregoing requirement shall not apply to the unlading of passengers from any such vessel arriving from a contiguous country otherwise than by sea when such vessel is not carrying baggage or other merchandise.

(b) No lading of merchandise requiring customs supervision on any vessel or vehicle departing for a contiguous country by any route, and no unlading of any passenger or merchandise (including baggage) from any vessel of less than 5 net tons or vehicle arriving from a contiguous country by any route, shall be done at night or on a Sunday or holiday until the collector has granted an application for a special license therefor. The foregoing requirement shall not apply to the unlading of passengers from any such vessel arriving from a contiguous country otherwise than by sea when such vessel is not carrying baggage or other merchandise. The application for the license and request for any reimbursable overtime services required of customs officers shall be on customs Form 3851, except that in the cases of vessels of less than 5 net tons and vehicles, not engaged in the carriage of persons or property for hire, the collector in his discretion and under such conditions as he deems advisable may allow the application to be made orally. In the cases of the vessels and vehicles last mentioned, the collector may authorize his customs inspectors to grant oral permission for unlading at night or on a Sunday or holiday and to grant requests on Form 3853 required in such a case for reimbursable overtime services.

(c) A request for reimbursable overtime services shall not be approved under the provisions of the preceding paragraph unless the required cash deposit or bond on customs Form 7567, 7569, or 7597 shall have been received, except that, when a carrier has on file a bond on customs Form 3587, no further bond shall be required of such carrier solely by reason of the unlading or lading at night or on a Sunday or holiday of merchandise (including baggage) covered by an entry for transportation in bond.

(d) A permit or special license required by this section may be issued on a term basis in the manner and under such of the conditions prescribed in § 4.30 (f) or (g) of this chapter as are applicable.

(Secs. 448, 450—454, 459, 46 Stat. 714, 715, as amended, 716, 717, as amended; 19 U. S. C. 1448, 1450, 1451, 1452, 1453, 1454, 1459)

§ 5.3 Vessels under frontier enrollment and license; repairs and equipment; sea and saloon stores and supplies.

(a) The statement of the cost of repairs made or equipment taken on board a vessel in contiguous foreign territory, required to be filed by section 465, Tariff Act of 1930,[4] shall be submitted by the master on customs Form 3415. If no

---

[3] "The master of any vessel or the person in charge of any vehicle who fails to report arrival in the United States as required by the preceding section, or if so reporting proceeds further inland without a permit from the proper customs officer, shall be subject to a penalty of $100 for each offense. If any merchandise is imported or brought into the United States in any vessel or vehicle, or by any person otherwise than in a vessel or vehicle, from a contiguous country, which vessel, vehicle, or merchandise is not so reported to the proper customs officers; or if the master of such vessel or the person in charge of such vehicle fails to file a manifest for the merchandise carried therein, or discharges or lands such merchandise without a permit; such merchandise and the vessel or vehicle, if any, in which it was imported or brought into the United States shall be subject to forfeiture; and the master of such vessel or the person in charge of such vehicle, or the person importing or bringing in merchandise otherwise than in a vessel or vehicle, shall, in addition to any other penalty, be liable to a penalty equal to the value of the merchandise which was not reported, or not included in the manifest, or which was discharged or landed without a permit. If any vessel or vehicle not so reported carries any passenger; or if any passenger is discharged or landed from any such vessel or vehicle before it is so reported, or after such report but without a permit; the master of the vessel or the person in charge of the vehicle shall, in addition to any other penalty, be liable to a penalty of $500 for each passenger so carried, discharged, or landed." (Tariff Act of 1930, sec. 460, as amended; 19 U. S. C. 1460)

[3a] For the requirements with respect to the unlading or lading of vessels not within the purview of this section, see § 4.30 of this chapter.

[4] "The master of any vessel of the United States documented to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers shall, upon arrival from a foreign contiguous territory, file with the manifest of such vessel a detailed list of all samples or other merchandise purchased in such foreign country for use or sale on such vessel, and also a statement of the cost of all repairs to and all equipment taken on board such vessel. * * * If any such supplies, merchandise, repairs, or equipment shall not be reported, the master, * * * or other person having charge of such vessel * * * shall be liable to a fine of not less than $100 and not more than $500, or to imprisonment for not more than two years, or both." (Tariff Act of 1930, sec. 465; 19 U. S. C. 1465)

equipment has been purchased or repairs made, a declaration to that effect shall be made on customs Form 3415. Equipment purchased and repairs made in a foreign country are subject to duty, but such duty may be remitted under certain conditions. (See §§ 4.7(b)(2) and 4.14 of this chapter.)

(b) The master shall also certify to the collector that any supplies listed as "sea stores" are intended for the exclusive use of the vessel. If the quantities thereof are excessive, duties shall be paid on the excess.

(c) Supplies listed as "saloon stores," intended for sale on board the vessel, are dutiable and shall be entered as merchandise.

(Sec. 465, 46 Stat. 718; 19 U. S. C. 1465)

§ 5.4 Inspection of baggage from contiguous foreign country.

Customs officers shall not open baggage for the purpose of making the inspection required by section 461, Tariff Act of 1930,[5] but shall detain such baggage until its owner or his agent opens or refuses to open it. If the owner or his agent refuses to open the baggage, it shall be opened and examined in accordance with the provisions of section 462, Tariff Act of 1930,[6] unless a request is received from the owner or his agent to make other proper disposition thereof.[7] Customs officers shall not unlock a vehicle or a compartment thereof for the purpose of examining baggage unless the owner or operator refuses to unlock such vehicle or compartment.

(Secs. 461, 462, 46 Stat. 717, 718; 19 U.S.C. 1461, 1462)

§ 5.5 Examination of baggage in foreign territory.

(a) United States customs officers stationed in foreign territory for that purpose may examine baggage being forwarded under baggage check, by express or in chartered cars of persons destined to the United States who have made proper declaration therefor, when requested to do so by such persons, but, except as to baggage being forwarded under baggage check, such examination shall not be made of baggage containing articles for which the $200 or $300 exemption is claimed under item 813.31 or 813.32, Tariff Schedules of the United States. Upon completion of the examination, a special green cardboard manifest not less than 2½ by 4½ inches in size supplied by the carrier shall be completed and attached under customs supervision to each piece of baggage by wire or cord and the baggage placed in the custody of the carrier. The special green manifest shall be in substantially the following form:

UNITED STATES CUSTOMS

SPECIAL BAGGAGE MANIFEST

CARRIER'S BAGGAGEMAN: Destroy this tag if owner has access to baggage before arrival in United States.

Check No. _____
Baggage examined and passed at _____
(Office)
_____
(Date)

_____
(U.S. Customs Officer)

(b) In lieu of attaching a special manifest to each piece as set forth in paragraph (a) of this section, such baggage may be laden in cars or compartments sealed with United States customs in-transit blue Tyden seals. The sealed cars or compartments shall be accompanied by a sheet manifest prepared in duplicate in the following form:

UNITED STATES CUSTOMS

SPECIAL MANIFEST OF BAGGAGE FORWARDED IN SEALED CAR OR COMPARTMENT

This baggage is in transit from _____ to _____ in the United States.

Car No. _____

Check No.	Destination	Passenger's name	Number declared for	Exemption allowed

The above-described baggage has been examined carefully and passed by me; its lading and the sealing of the car or compartment have been done under my personal supervision; and no goods of any kind subject to duty are contained in such baggage except that on which proper exemption has been allowed.

Date_____ _____
U. S. Customs Officer

(c) One copy of this manifest shall be given to the railroad employee in charge of the baggage for delivery by him to the customs officer at the port of first arrival in the United States.

(d) In lieu of the procedure set forth in paragraphs (a) and (b) of this section, sticker labels other than official baggage stamps may be affixed to baggage examined and passed in foreign territory if the baggage is to be released in the United States by the same officer who examined and passed it in the foreign country. Such sticker labels shall bear suitable wording showing that the baggage has been passed by the United States customs.

(e) The removal of the special tag manifest or the customs car or compartment seal described in paragraphs (a) and (b) of this section may be done only by a customs officer. The tag manifest or any customs seal on the car or compartment shall be removed by the customs officer who boards the train at the port of first arrival in the United States. If the officer finds the special tag manifest, sticker label, or customs car or compartment seal missing or not intact (except as provided for in § 18.3(c) of this chapter), or for any other reason believes that the baggage has been tampered with en route to the United States, he shall detain it for examination.

(f) If the baggage is to re-enter contiguous foreign territory before it reaches the final port of entry into the United States, the tag manifest or the seal or seals shall be removed by the customs officer at the first port of entry in the United States after the last transit through foreign territory.

(g) No baggage containing dutiable merchandise in excess of that on which an exemption may be allowed shall be passed in foreign territory.

§ 5.6 Merchandise arriving from a contiguous foreign country in sealed vessels or vehicles.

Merchandise arriving from a contiguous foreign country, which is not to be unladen at the port of first arrival, may be transported to destination in sealed vessels or vehicles without inspection at the port of first arrival, subject to the conditions set forth in sections 463 and 464, Tariff Act of 1930,[8] and §§ 18.29–18.31 of this chapter.

(Sec. 463, 46 Stat. 718; 19 U. S. C. 1463)

---

[5] "All merchandise and baggage imported or brought in from any contiguous country, except as otherwise provided by law or by regulations of the Secretary of the Treasury, shall be unladen in the presence of and be inspected by a customs officer at the first port of entry at which the same shall arrive; and such officer may require the owner, or his agent, or other person having charge or possession of any trunk, traveling bag, sack, valise, or other container or of any closed vehicle, to open the same for inspection, or to furnish a key or other means for opening the same." (Tariff Act of 1930, sec. 461; 19 U. S. C. 1461)

[6] "If such owner, agent, or other person shall fail to comply with his demand, the officer shall retain such trunk, traveling bag, sack, valise, or other container or closed vehicle, and open the same, and, as soon thereafter as may be practicable, examine the contents, and if any article subject to duty or any article the importation of which is prohibited is found therein, the whole contents and the container or vehicle shall be subject to forfeiture." (Tariff Act of 1930, sec. 462; 19 U.S.C. 1462)

[7] For procedure relative to the examination of uninspected baggage, form of declaration, exemption, and forwarding baggage in bond, see §§ 10.16–10.30 of this chapter.

[8] "To avoid unnecessary inspection of merchandise imported from a contiguous country at the first port of arrival, the master of the vessel or the person in charge of the vehicle in which such merchandise is imported may apply to the customs officer of the United States stationed in the place from which such merchandise is shipped, and such officer may seal such vessel or vehicle. Any vessel or vehicle so sealed may proceed with such merchandise to the port of destination under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, sec. 463; 19 U. S. C. 1463)

"If the master of such vessel or the person in charge of any such vehicle fails to proceed with reasonable promptness to the port of destination and to deliver such vessel or vehicle to the proper officers of the customs, or fails to proceed in accordance with such regulations of the Secretary of the Treasury, or unlades such merchandise or any part thereof at other than such port of destination, or disposes of any such merchandise by sale or otherwise, he shall be guilty of a felony and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than five years, or both; and any such vessel or vehicle, with its contents, shall be subject to forfeiture." (Tariff Act of 1930, sec. 464; 19 U. S. C. 1464)

§ 5.7 Supplies on international trains.

(a) Articles subject to internal-revenue tax and other merchandise acquired in a foreign country constituting supplies of dining, observation, or buffet cars attached to international trains passing and repassing the boundary line, for which the train crew elects not to file an inventory, as provided for in paragraph (b) of this section, shall be subject to duty and tax unless locked or sealed in a separate compartment or locker upon arrival at the frontier port of the United States and the lock or seal remains unbroken until the final departure of the train from the United States at the frontier port.

(b) Supplies acquired abroad and not required to have internal-revenue stamps affixed thereto before release for consumption may be used in the United States if covered by an inventory furnished in duplicate to the proper customs officer at the time of arrival in the United States.[9] The correctness of the inventory shall be sworn to by the person in charge of the railroad car. The inventory shall consist of an itemized list showing in parallel columns the kind and quantity of each class of supplies on hand in the car upon its arrival in the United States and the quantity used in the United States.

(c) The customs officer shall certify both copies of the inventory, retain the original, and return the other copy to the person in charge of the car.

(d) Upon arrival of the railroad car at the port of exit on its return to the foreign country, the copy of the inventory which was returned by the customs officer at the port of arrival to the person in charge of the car shall be submitted to the proper customs officer after being completed by filling in the column showing the quantity of each item used in the United States and resworn to by the person in charge of the car.

(e) Entries must be filed and applicable duties and taxes paid at the port of exit on the quantities of inventoried supplies consumed in the United States.

(f) Supplies purchased in the United States shall be passed free of duty without inventory or entry.

(Sec. 465, 46 Stat. 718; 19 U. S. C. 1465)

§ 5.8 Merchandise in transit between ports in the United States through contiguous foreign territory; procedure at port of exit or lading on vessel.

(a) In accordance with the provisions of section 554, Tariff Act of 1930,[10] merchandise may be transported from one port to another in the United States through Canada or Mexico without being subject to treatment as an importation when returned to the United States, upon compliance with the regulations in this section and in §§ 5.9 and 5.10.

(b) The merchandise shall be transported in sealed conveyances or compartments unless (1) it is in less-than-load or compartment lots, in which case the packages may be forwarded without being corded and sealed, or (2) it consists of live animals to be transported in accordance with paragraph (c) of this section, or (3) its treatment in the same manner as less-than-load or compartment lots is authorized by the Bureau. The merchandise shall be covered by manifests conforming to such requirements as to color, size, form, and content as the Commissioner of Customs may specify for particular types of transactions. If the Commissioner has not promulgated applicable specifications, the manifest forms shall be printed on yellow paper, approximately 5¾ by 6½ inches in size, and shall correspond to the following example in which geographical designations have been inserted solely for the purpose of illustration:

U.S. CUSTOMS IN-TRANSIT MANIFEST

(Merchandise in transit between ports in the United States through contiguous foreign territory)

Car No. and initials: _____ (Carrier)

Port of exit: Buffalo, N.Y. (Fort Erie, Ontario).

Port of reentry:
- (Port Huron, Mich.) ☐
- (Sarnia, Ontario) ☐
- (Niagara Falls, N.Y.) ☐
- (Niagara Falls, Ontario) ☐
- (Detroit, Mich.) ☐
- (Windsor, Ontario) ☐
- (St. Albans, Vt.) ☐
- (LaColle, Quebec) ☐

Description of articles (include marks and Nos. and number of packages for LCL shipments).

Name of consignee and destination (for LCL shipments)

(Agent of carrier)

(Date)

I certify that the above car number and initials are correct and (check applicable statement).

☐ That the car has not been sealed with customs seals, or
☐ That the car has been sealed with customs seals verified to be intact and locked.

_____*
☐ U.S. Customs Inspector
☐ Agent of carrier

*The certificate shall be signed with ink or indelible pencil.

It will be noted that the name of the port of exit is followed by the name of the foreign port of entry and that the names of the ports of reentry are followed by the names of the foreign ports of exit. The names of the foreign ports may be omitted. In the case of a conveyance other than a railroad car, the conveyance shall be identified in a suitable manner, as by the name and rig of a vessel, in the place provided for car number and initials, and the certificate shall be modified appropriately. The collector may require that the carrier execute the certificate on the U.S. Customs In-Transit Manifest as an alternative to certification of the form by a customs officer. In such a case, if the merchandise is forwarded without being under customs Tyden seals, the agent of the carrier shall carefully examine the packages covered by the in-transit manifests to satisfy himself that the merchandise agrees with the manifests as to quantity and description.

(c) Live animals which can be identified by specific description in the manifest may be transported in the care of an attendant or customs inspector at the expense of the parties in interest in conveyances or compartments not secured with customs seals.

(d) The information contained in the in-transit manifest shall correspond with the information contained in the waybill accompanying the conveyance.

(e) Each manifest shall be presented by the carrier to the customs officer at the port of exit of the conveyance or at the port of lading of the vessel, as the case may be. An extra copy of the manifest may be required to be furnished for use as a record of the transaction at such port, provided it serves an essential administrative purpose. When the merchandise is to be transshipped under customs supervision in foreign territory, an additional copy of the manifest shall be so presented by the carrier for each place of transshipment. In the case of mixed ladings, that is, ladings made up of several shipments, which are to go forward in a conveyance or compartment sealed with customs seals, the description shall be "miscellaneous shipments."

(f) Before the departure from the United States of an in-transit railroad train, the carrier concerned shall furnish to the customs inspector at the port of exit a train sheet, otherwise known as a consist, bridge sheet, or trip sheet, listing each car of the train and specifically indicating the in-transit cars.

(g) It shall be the duty of the carrier to affix blue in-transit seals to all openings of conveyances and compartments containing in-transit merchandise, ex-

[9] "* * * The conductor or person in charge of any railway car arriving from a contiguous country shall file with the manifest of such car a detailed list of all supplies or other merchandise purchased in such foreign country for use in the United States. If any such supplies, merchandise, repairs, or equipment shall not be reported, the master, conductor, or other person having charge of such vessel or vehicle shall be liable to a fine of not less than $100 and not more than $500, or to imprisonment for not more than two years, or both." (Tariff Act of 1930, sec. 465; 19 U. S. C. 1465)

[10] "With the consent of the proper authorities, imported merchandise, in bond or duty-paid, and products and manufactures of the United States may be transported from one port to another in the United States through contiguous countries, under such regulations as the Secretary of the Treasury shall prescribe, unless such transportation is in violation of section 4347 of the Revised Statutes, as amended, section 27 of the Merchant Marine Act, 1920, or section 588 of this Act." (Tariff Act of 1930, sec. 554; 19 U. S. C. 1554)

cept that on the Canadian border yellow in-transit seals shall be affixed to sealable carload or truckload shipments of in-transit merchandise, whether or not the cars or trucks are already sealed with United States customs red in-bond seals, and except that in all other instances conveyances or compartments already secured by United States customs red in-bond seals may go forward without having blue or yellow in-transit seals affixed thereto and without in-transit manifests. The collector may relieve the carrier of the responsibility of affixing in-transit seals by notifying it in writing that customs inspectors will assume it. The conveyance shall not proceed until after the customs inspector has finished the inspection and certified the in-transit manifest or verified its certification in accordance with paragraph (b) of this section.

(h) The original manifest shall accompany the merchandise and the additional copies required under paragraph (e) of this section when transshipment under customs supervision is involved shall be mailed to the customs officers stationed at the places of transshipment. When by reason of the carrier's schedule or other condition it is probable that the additional copy of the manifest if sent by mail will not reach the customs officer at the place of transshipment prior to the arrival of the merchandise, it may be given to the conductor, master, aircraft commander, or driver, as the case may be, in a sealed envelope for delivery to such customs officer.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 5.9 Transshipment; storage; feeding and watering livestock in Canada.

(a) Merchandise in transit may be transshipped in foreign territory from one conveyance to another. If the transshipment requires the breaking of customs Tyden seals, it shall be under the supervision of a customs officer, who shall also supervise the sealing of the conveyance or compartments to which the merchandise is transshipped, note his action on both the additional copy of the manifest received by him in accordance with § 5.8(h) and on the conductor's, master's, aircraft commander's, or driver's copy, and return the latter to the conductor, master, aircraft commander, or driver to accompany the merchandise.

(b) When the transshipment involves the breaking up of the in-transit contents of a conveyance or compartment, and the circumstances are such as to require separate manifests for articles previously covered by a single manifest, the customs officer supervising the transshipment shall take up the carrier's copy of the manifest and require the carrier to prepare a new manifest, in duplicate, for each conveyance to which the merchandise is transshipped. If there is to be a further transshipment, an additional copy of each new manifest shall be presented by the carrier for mailing by the customs officer to the customs officer at the point of further transshipment, or be forwarded in a sealed envelope in care of the conductor, master, aircraft commander, or driver as provided for in § 5.8(h). After supervising the transshipment and sealing of the conveyances or compartments to which the merchandise is transshipped, and certifying the new manifests, the customs officer shall return the originals of such new manifests to the carrier to accompany the merchandise to the port of reentry into the United States.

(c) Live animals in sealed conveyances or compartments may be fed and watered in Canada under the supervision of United States or Canadian customs officers.

(d) When merchandise moving under in-transit manifests and customs Tyden seals is to be stored in foreign territory awaiting transshipment, the customs officer at the place of transshipment shall check the merchandise into a storehouse, where it shall remain under customs locks or seals until transshipment is effected under customs supervision.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 5.10 Diversion or delay in foreign territory; procedure and treatment at port of reentry or discharge from vessel.

(a) In cases where in-transit cars are diverted, cut out of a train for any reason, or unusually delayed, the railroad superintendent at the point of such diversion, cut-out, or delay shall immediately notify the proper customs officer at the port of reentry by telegraph.

(b) When customs entry is made in Canada or Mexico for merchandise which left the United States is in an in-transit status, the carrier shall send the in-transit seals and manifests to the ports where the manifests were first filed with customs, with an endorsement by the carriers' agent on each manifest showing that the merchandise was so entered.

(c) On arrival of an in-transit shipment at the first port in the United States after transportation through foreign territory, the carrier shall present to the customs officer for each loaded conveyance the accompanying manifest or manifests described in §§ 5.8 and 5.9; and in the case of a railroad train the conductor shall also present a train sheet showing the car initials and car numbers. In the case of mixed ladings under § 5.8(e), the waybills shall be available at the port of return or discharge for use by customs officers for necessary checking purposes.

(d) Upon the arrival at a port of entry of a vessel carrying in-transit merchandise, the master's copies of the in-transit or in-bond manifests covering the merchandise given final customs release at that port shall be retained by customs at that port and the manifests, if any, covering merchandise to be discharged at subsequent ports of arrival shall be returned to the master of the vessel for surrender to customs at the next port, and so on as the vessel proceeds from port to port.

(e) In-bond seals shall be broken only by a customs officer or by a person acting under the direction of a customs officer. In-transit seals may be broken by any carrier's employee, or by the consignee at any time or place after the merchandise under such seals has been released by customs upon return to the United States.

(f) Merchandise which shall have been transshipped in foreign territory without customs supervision when the transshipment required the breaking of customs Tyden seals shall, upon return to the United States, be treated in the same manner as other merchandise arriving from Canada or Mexico, as the case may be. Similar treatment shall be accorded the merchandise in any other case if the inspector finds any of the customs seals applied to the conveyance or compartment at the port of exit are unlocked or missing. If any instances of substitution of merchandise are found, the merchandise shall be detained and the facts reported to the Bureau.

(g) No in-transit merchandise arriving at ports in the United States shall be released until proper manifests are received, except that it may be treated as originating in Canada or Mexico, as the case may be.

(h) No inward foreign manifests are required for merchandise returned to the United States as an in-transit movement under the regulations in this part.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 5.11 Merchandise in transit through the United States between ports of Canada or Mexico; procedure.

(a) Subject to the applicable provisions of paragraphs (b) and (c) of this section, whenever merchandise (including baggage) arrives at a frontier port from Mexico or Canada in transit through the United States to the same country from which it arrived, the same procedure shall be followed as that prescribed for merchandise in transit through the United States to other foreign countries (§§ 18.14 and 18.20–18.24 of this chapter), except that (1) only four copies of customs Form 7512 or 7520 shall be required, (2) when the route is such that the train and cars will remain intact while proceeding through the United States, a consolidated train manifest containing the same information as is required on customs Form 7512 or 7520 may be used, and (3) a joint United States-Canada in-transit baggage card (United States customs Form 7524, Canada customs Form A–21) shall be used in lieu of the baggage card described in § 18.13 of this chapter for baggage arriving at a frontier port from Canada. One copy of customs Form 7512 or 7520 shall be delivered to the conductor, master, or person in charge to accompany the conveyance and be delivered to the collector at destination for his record. When baggage arrives at a Canadian frontier port for in-transit movement through the United States in bond and return to Canada, the joint United States-Canada in-transit baggage card will be filled out and securely attached to the baggage and the attachment verified by a Canadian customs officer before the baggage leaves Canada. No other in-transit baggage card shall be required to be attached to the baggage before its movement in bond through the United States, provided the in-transit baggage card placed

on the baggage in Canada is found properly prepared and attached.

(b) When sealable carload or truckload shipments of merchandise arrive at Canadian frontier ports for in-transit movement through the United States in bond and return to Canada, bright green intransit seals will be placed on the cars or trucks and the sealing thereof verified by Canadian customs officers before the cars or trucks depart from Canada. No other in-transit seals shall be required to be placed on such cars or trucks before their movement in bond through the United States provided the seals placed on the cars or trucks in Canada are found to be locked and properly attached. In-transit manifest forms of the kind referred to in § 5.8 (b) may be used in lieu of customs Form 7512 or 7520, as the case may be, for such sealed carload shipments of in-transit merchandise. In-transit manifest forms so used in lieu of customs Form 7512 or 7520 shall be serially numbered in a separate series of numbers.

(c) A commercial traveler arriving at a Canadian frontier port with his samples which are to be transported in his own automobile through the United States to another port in Canada without being displayed in the United States, may present the samples, if the outer containers can be effectively sealed, to a Canadian customs officer at the port of departure from Canada for cording and sealing with uncolored automatic metal in-transit seals. As a condition for such cording and sealing, the traveler will be required to furnish to the Canadian customs officer a list, in duplicate, of all the articles in the containers with the approximate values of the articles shown. Such list will bear the traveler's name and address. Upon the arrival of the commercial traveler in the United States with his samples effectively corded and sealed as set forth above, and upon presentation to the United States customs officer of the original list of samples properly authenticated by the Canadian customs officer, the samples may be transported through the United States without disturbing the cords and seals and without further sealing of the samples in the United States. Bonded common carrier facilities are not considered to be reasonably available to a commercial traveler under the above described circumstances and, therefore, he may be permitted to transport his samples in his own automobile, subject to the conditions of § 18.20 (b) of this chapter. The traveler shall be required to execute and file customs Form 7520, in triplicate, at the port of his arrival in the United States as an in-transit manifest covering the movement to the port of exit from the United States of any portion of his samples which is not released from customs custody. In preparing customs Form 7520 for commercial travelers' samples, descriptions, quantities, and values may be shown thereon by merely noting "Commercial Samples", the number of the corded and sealed containers, and the approximate total value of the samples.

(d) When all the merchandise arriving on one vehicle is to move in transit through the United States in the importing vehicle in a continuing movement, the copy of customs Form 7512 to be retained at the port of first arrival may be prepared to permit its use as a combined inward foreign and in-bond manifest. When customs Form 7512 is to be used in this manner, the foreign port of lading shall be shown and a certificate in the following form shall be executed by the person in charge of the vehicle:

I, the undersigned, certify that this transportation entry and manifest contains, to the best of my knowledge and belief, a just and true account of all the goods, wares, and merchandise, including packages of every kind and nature whatsoever, which constituted the lading of the vehicle named herein when it first arrived within the limits of the United States, and that I have been, since the arrival of the said vehicle within the United States, the person in charge of said vehicle and that no packages whatsoever, nor any goods, wares, or merchandise, have been in any way removed from said vehicle since its arrival within the United States.

And I further certify that, if I shall hereafter discover or know of any error, discrepancy, or omission in this entry and manifest, I will immediately and without delay make due report thereof to the collector of the district to whom this report is now delivered.

Dated _____

Signature _____

The above prescribed form of certificate, which can be put on a rubber stamp approximately 2" x 5" in size, may be legibly stamped on the form or on a separate paper securely fastened thereto.

(Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

§ 5.12 Locomotives; railroad equipment; when entry required.[10a]

(a) Foreign locomotives or other foreign railroad equipment in use on a continuous route crossing the boundary into the United States shall be admitted without entry or the payment of duty to proceed to and return from the end of the run; that is, in the case of locomotives, the last place to which the locomotive takes the inbound train by a continuous haul, and, in the case of other equipment, the place of complete unloading. Unless formally entered and cleared through customs in the United States, such locomotives or other equipment shall not be used on the inward trip otherwise than in connection with the continuous run, which includes switching of cars of a train that it has hauled into the United States. On the return trip, the locomotives may be used only in connection with through trains crossing the boundary, including the switching to make up such trains, but the other equipment may be used in such trains or for such local traffic as is reasonably incidental to its economical and prompt return to the country from which it entered the United States. Empty foreign railroad cars shall enter the United States without formal entry to be loaded only if the passengers or goods are to be transported directly to or through the country from which the cars entered the United States. Customs officers shall seize any locomotive or other railroad equipment used in violation of this regulation as being imported contrary to law.

(b) Domestic locomotives or other domestic railroad equipment,[11] upon which repairs have been made in a foreign country shall be subject, upon reentry into the United States, to a duty upon the value of the repairs at the rate at which the locomotive or other equipment would be dutiable if imported, but no such duty shall be assessed by reason of repairs required to restore any such article to the condition in which it last left the United States. A report of the first arrival in the United States of such equipment after it has been repaired in a foreign country shall be made promptly, in writing, to the United States Customs at the port of entry, such report to state the time and place of arrival.

(Sec. 14, 67 Stat. 516; 19 U. S. C. 1822)

§ 5.13 Stolen automobiles, trailers, and airplanes returned to United States; entry not required.

Collectors of customs shall admit from Mexico, under the provisions of Executive Order 7965, dated August 29, 1938, 3 CFR, 1943 Cum. Supp., without entry and without the payment of duty, alleged stolen or embezzled motor vehicles, trailers, airplanes, or component parts of any of them, if accompanied by a letter from the United States Embassy in Mexico City stating that such Embassy is satisfied from information furnished it that the property, which must be adequately described in the letter for identification purposes, is stolen property being returned to the United States under the provisions of the convention between the United States and Mexico concluded October 6, 1936.

§ 5.15 Buildings on boundary; merchandise deposited therein.

When any merchandise on which the duty has not been paid or which was imported contrary to law is found in any building upon or within 10 feet of the boundary line between the United States and any foreign country, such merchandise shall be seized and the building or that portion thereof which is within the United States shall be taken down or removed.[12]

(Sec. 595, 46 Stat. 752; 19 U.S.C. 1595)

[10a] "(a) Vehicles and other instruments of international traffic, of any class specified by the Secretary of the Treasury, shall be granted the customary exceptions from the application of the customs laws to such extent and subject to such terms and conditions as may be prescribed in regulations or instructions of the Secretary of the Treasury." (Tariff Act of 1930, sec. 322(a), as amended; 19 U.S.C. 1322(a))

[11] For the purpose of this section, locomotives or other railroad equipment manufactured in, or regularly imported into, the United States, and not subsequently cleared through foreign customs into another country, nor used in foreign local traffic otherwise than as an incident of the return of the equipment to the United States, shall be considered "domestic." Other railroad equipment shall be considered "foreign."

[12] "If any collector of customs or other officer or person authorized to make searches and seizures shall have cause to suspect the presence in any dwelling house, store, or other building or place of any merchandise upon which the duties have not been paid, or

(Footnote 13—Continued)

which has been otherwise brought into the United States contrary to law, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any United States commissioner, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise: *Provided*, That if any such house, store, or other building, or place in which such merchandise shall be found, is upon or within 10 feet of the boundary line between the United States and a foreign country, such portion thereof as is within the United States may forthwith be taken down or removed." (Tariff Act of 1930, sec. 595 (a); 19 U.S.C. 1595 (a))

"Whoever receives or deposits any merchandise in any building upon the boundary line between the United States and any foreign country, or carries any merchandise through the same, in violation of law, shall be fined not more than $5,000 or imprisoned not more than two years, or both." (18 U.S.C. 547)

PART 6—AIR COMMERCE REGULATIONS

Sec.

6.1 Scope and definitions.
6.2 Landing requirements.
6.3 Entry and clearance.
6.4 Entry of aircraft of scheduled airlines.
6.5 Clearance of aircraft of scheduled airlines.
6.6 Documents; form.
6.7 Documents for entry.
6.8 Documents for clearance, or for certain departures.
6.9 Residue cargo.
6.10 General provisions.
6.11 Penalties.
6.12 International airports; regulations.
6.13 List of international airports.
6.15 Transportation in bond and merchandise in transit.
6.16 Certificate of lading for exportation.
6.17 Alternate transportation procedures for air cargo subject to customs control.
6.18 Documentation for transit air cargo.
6.19 Identification of transit air cargo manifest sheets.
6.20 Conditions for transportation of transit air cargo.
6.21 Timely delivery and exportation.
6.22 Transportation of transit air cargo to an interior port of destination.
6.23 Transportation of transit air cargo to another port for exportation.
6.24 Exportation of transit air cargo at port of arrival.

AUTHORITY: §§ 6.1 to 6.24 issued under R.S. 161, as amended, 251, sec. 624, 46 Stat. 759 secs. 904, 1109, 72 Stat. 787, 799, as amended, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, 49 U.S.C. 1474, 1509, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

CROSS REFERENCE: For Air Commerce Regulations issued by the Surgeon General of the Public Health Service, Department of Health, Education, and Welfare *see* 42 CFR 71.501 to 71.506.

§ 6.1 Scope and definitions.

(a) The regulations in this part shall not be applicable in the islands of Guam, Midway, American Samoa, Wake, Kingman Reef, and Johnston Island, the Virgin Islands and other insular possessions not specified herein.

(b) The term "United States" when used in a geographical sense means the territory comprising the several States, Territories, possessions, and the District of Columbia, including the territorial waters thereof and the overlying air space, but shall not include the Canal Zone.

(c) The term "area" shall mean either one of the following:

(1) The States and the District of Columbia,

(2) Puerto Rico.

(d) The term "aircraft" means civil aircraft, that is, any aircraft not used exclusively in the governmental service of the United States or a foreign country, and includes any government-owned aircraft engaged in carrying persons or property for commercial purposes.

(e) The term "aircraft commander" means the person serving on the aircraft having charge or command of its operation and navigation.

(f) The term "scheduled airline" means any individual, partnership, corporation, or association engaged in air transportation upon regular schedules to, over, or away from the United States, or from area to area, and holding a Foreign Air Carrier Permit or a Certificate of Public Convenience and Necessity issued by the Civil Aeronautics Board.

(g) The term "authorized person" (authorized agent of an owner or operator) means any person who by written authority, satisfactory to the collector of customs, has been designated to act for and in the place of an owner or operator of a scheduled airline or who by power of attorney has been authorized to act for and in the place of an owner or operator of a nonscheduled airline.

(h) The term "international airport" means any airport designated by the Secretary of the Treasury or the Commissioner of Customs as a port of entry for aircraft arriving in the United States from any place outside thereof and for the merchandise carried on such aircraft, by the Attorney General as a port of entry for aliens arriving on such aircraft, and by the Secretary of Health, Education, and Welfare as a place for quarantine inspection.

§ 6.2 Landing requirements.

(a) *Place of landing.* Every aircraft coming into any area from any place outside thereof shall land in such area unless exempted from this requirement by the Administrator of the Federal Aviation Agency, Washington 25, D.C. The first landing shall be at an international airport unless permission to land elsewhere shall first be granted by the Bureau of Customs, in cases of aircraft operated by scheduled airlines, and in all other cases by the collector or

other customs officer in charge at the port of entry or customs station

passengers and crew members in

other customs officer in charge at the port of entry or customs station nearest the intended place of first landing. When the Bureau of Customs grants permission to land elsewhere than at an international airport, the Bureau shall immediately notify the heads of the Public Health Service, the Immigration and Naturalization Service, and of any other agency likely to be concerned with the landing, and, when a collector or other customs officer grants such permission, he shall immediately notify the principal local officer of each such agency. In cases where such permission is given, the owner, operator, or person in charge of the aircraft shall pay the additional expenses, if any, incurred in inspecting the aircraft, passengers, employees, and merchandise, including baggage, carried therein. When such permission is granted to a scheduled airline to land aircraft operating on a schedule, no inspection charge shall be made except for overtime service performed by customs officers.

(b) *Advance notice of arrival.* (1) Before an aircraft comes into any area from any place outside the United States, for security reasons, and in order to avoid the penalties provided for in § 6.11, a timely notice of intended flight must be furnished, either by or at the request of the commander of the aircraft, to the collector or other customs officer in charge at or nearest the intended place of first landing in such area. That officer shall notify the officers in charge of the other Government services. When, by reason such as departure from a remote place, dependable facilities for giving notice are not available, a landing shall be made at a place where the necessary facilities do exist before coming into any area from any place outside the United States. However, radio equipment of the plane may be used if this will result in the giving of adequate and timely notice. Advance notice shall not be required in the case of aircraft of a scheduled airline arriving in accordance with a regular schedule filed with the collector of customs for the district in which the place of first landing is situated. If, upon landing in any area, the aircraft commander finds that the Government officers have not arrived, the aircraft commander must hold the aircraft and any merchandise, including baggage, thereon intact, and keep the passengers and crew members in a segregated place until the inspection officers are available.

(2) Each notice of an intended flight shall specify the type of aircraft, the registration marks thereon, the name of the aircraft commander, the place of last departure, the international airport or other place at which landing has been authorized, number of alien passengers, number of citizen passengers, and the estimated time of arrival; and shall be sent so as to be received in sufficient time to enable the officers designated to inspect the aircraft to reach the international airport or such other place of first landing prior to the arrival of the aircraft.

(c) *Permission to discharge or depart.* No aircraft arriving in the United States from any place outside thereof, or in an area from another area carrying residue foreign cargo (see § 6.9) shall depart from the place of landing, or discharge any passengers or merchandise, including baggage, without receiving permission from the customs officers in charge.

(d) *Permit to proceed; foreign aircraft.* (1) Aircraft are subject to customs entry when brought in for repairs or when otherwise treated as imported articles. Before an aircraft which is not treated as an imported article, which is registered in a foreign country, and which arrives in the United States carrying passengers for hire or merchandise is ferried (proceeds in ballast) from the airport of first arrival to one or more airports in the United States, its commander shall obtain from the collector of customs at the airport of first arrival a permit on customs Form 4449 allowing the aircraft to proceed from airport to airport in the United States, which shall be retained on board such aircraft while in the United States. At each airport visited, the customs officer there, or, if there is none, the airport manager, shall make an endorsement on the back of such permit showing the name of the airport, date and time of arrival, date and time of departure, and purpose of the visit. The permit shall be surrendered to the collector of customs at the port of final clearance for a foreign destination, who shall satisfy himself prior to the issuance of clearance that the aircraft received proper customs treatment while in this country. The permit shall then be returned to the collector of customs at the port of issue.

(2) A copy of the permit shall be retained by the collector at the port where issued. If within 60 days after the issuance of such permit the said collector does not receive a report of the outward clearance of the aircraft covered thereby, the matter shall be reported to the supervising customs agent for investigation.

(3) Civil aircraft of domestic origin registered in the United States and arriving from a foreign country with passengers carried for hire or merchandise, after proper customs treatment of all such passengers and merchandise, may be allowed to proceed upon their identity being established. Civil aircraft of foreign origin registered in the United States and arriving from a foreign country in international traffic shall be subject to the following provisions:

(i) If such aircraft has been entered as an imported article and duty has been paid on a previous arrival, it may be permitted to proceed otherwise than as an imported article upon a declaration by the aircraft commander identifying the port, date, and number of the duty-paid entry filed upon such previous arrival.

(ii) If such aircraft has not been entered as an imported article subject to duty, in addition to any other documents required in connection with a flight in continuation of the international traffic, it shall proceed under a permit on customs Form 4449 which shall specifically identify the aircraft number, country of manufacture, name of the manufacturer, flight number, port, and date of arrival for the flight on which it arrived in the United States, and action shall be taken thereon as specified in subparagraphs (1) and (2) of this paragraph. It shall proceed without being treated as an imported article only if it is in continuous use solely in international traffic or use incidental thereto and will depart from the United States to a destination outside thereof in international traffic or in ballast. If such aircraft which has not been entered as an imported article is withdrawn from international traffic or diverted in the United States to a use other than international traffic or use incidental thereto, it shall be subject to entry as an imported article and dutiable at the rate in effect at the time of withdrawal or diversion.[1]

(e) *Monthly and annual requests for overtime services and licenses to unlade and lade.* A special license on customs Form 3851 running for any period up to 1 month and in multiples of months thereafter, but not to exceed 1 year nor longer than the period of the supporting bond, may be granted to a scheduled airline to unlade passengers or merchandise, including baggage, or to lade merchandise, including baggage, in the case of any or all of its planes at night or on a Sunday or holiday when customs supervision is required. The application for such a special license to lade or unlade and request for overtime services of customs officers shall be made on customs Form 3851. Such request for overtime services must show the exact times when overtime services will be needed unless arrangements are made so that the proper customs officer will be notified during official hours in advance of the services requested as to the exact times that the services will be needed. The special license shall not be granted until the required bond on customs Form 3587, 7567, or 7569 shall have been filed.

(f) *Monthly and annual permits to unlade and lade.* The collector may also issue a permit running for any period up to 1 month and in multiples of months thereafter, but not to exceed 1 year, to unlade or lade during official hours any

---

[1] The Bureau of Customs made the following ruling on the status of foreign aircraft wrecked while engaged in international traffic: "If the accident results in substantial demolition of the aircraft, no entry is required and no duty accrues with respect to any portion of the wreckage. If the accident does not result in substantial demolition of the aircraft, and all salvageable portions and parts of the wrecked aircraft are exported, the aircraft is not considered to have been withdrawn from international traffic so as to subject the aircraft as a whole or any portion or part thereof to regular customs entry and duty as imported merchandise. However, if the accident does not result in substantial demolition of the aircraft and the wrecked aircraft or any salvageable portion or part thereof is not exported, an entry is required for the retained damaged aircraft, or salvageable portion or part, as the case may be, and duties will be assessed thereon in accordance with its condition immediately after the casualty." T.D. 55063(1), March 4, 1960.

or all of the planes of a scheduled airline. Customs Form 3851 shall be used for such purpose.

(g) *Emergency or forced landing.* Should an emergency or forced landing be made by an aircraft coming into the United States from any place outside thereof, or into an area from a place outside the areas defined in § 6.1(c) of the regulations of this part, or while traveling from airport to airport in the areas of the United States under a permit to proceed (see § 6.9(b) of the regulations of this part), the aircraft commander shall not allow any merchandise, baggage, passengers, or crew members not previously cleared by customs or other applicable Government agency to be removed, or to depart from the landing place without permission of a customs officer, unless such removal of departure is necessary for purposes of safety, communication with customs authorities, or the preservation of life, health, or property. As soon as practicable, the aircraft commander, or a member of the crew in charge, or the owner of the aircraft, shall communicate with the customs officer at the intended place of first landing or at the nearest international airport or other customs port of entry in that area and make a full report of the circumstances of the flight and of the emergency or forced landing. When an aircraft carrying precleared crew, passengers and baggage or merchandise lands for any reason at an airport in the United States other than the scheduled or intended port of arrival, written notice must be received from the airline representative or aircraft commander both at the customs office at the place of preclearance and at or for the place of intended landing within seven days, unless notice is otherwise given in accordance with a procedure previously agreed to with the carrier by the collector of customs involved. Mail carried as such may be removed from such aircraft upon making an emergency or forced landing, but if so removed shall be delivered at once to a responsible officer or employee of the Postal Service.

(Sec. 14, 67 Stat. 516; 19 U.S.C. 1322)

§ 6.3 Entry and clearance.

(a) Aircraft coming into any area from any place outside the United States shall be entered in such area if landing is made therein and if carrying passengers for hire or commercial cargo (see § 6.7). Aircraft proceeding from one area into another shall be entered in the latter area if landing is made therein and if carrying residue cargo. Aircraft not required to enter under this paragraph are subject to other customs requirements (see § 6.2).

(b) Entry shall be made by the aircraft commander, or by any other authorized agent of the owner or operator of the aircraft (hereinafter referred to as an authorized person),[1a] at the international airport at which the first landing is made in the area. If, pursuant to § 6.2 (a), the first landing occurs at a place not an international airport, entry shall be made at the nearest international airport or customs port of entry, unless some other place is designated for that purpose.

(c) Aircraft departing from an area for foreign territory carrying passengers for hire or merchandise, or to take aboard or discharge persons or merchandise anywhere outside the United States or carrying residue cargo from one to another area shall be cleared in the area from which departing. In accordance with provisions of regulations of the Bureau of the Census (15 CFR Part 30), any aircraft not otherwise required to clear which is carrying merchandise from one to another area, or from an area to any possessions of the United States, must obtain permission to depart (see § 6.8 of the regulations of this part). If an aircraft is departing on a flight from the United States and is not required to clear under the preceding provisions of this paragraph, it must, nevertheless, obtain customs clearance if by reason of the foreign destination of the aircraft a validated license from the Bureau of International Commerce is required by § 370.2 of the Export Control Regulations (15 CFR 370.2). Aircraft not under the export licensing authority of the Department of Commerce are subject to the export licensing authority of the Department of State and are specified in Category X in the United States Munitions List (22 CFR Part 121). Such aircraft may depart from the United States only under appropriate Department of State license whether or not subject to clearance under this section.[2]

(d) The clearance or permission to depart shall be obtained by the aircraft commander or an authorized agent at the customs port of entry (whether or not an international airport) at or nearest the place of last take-off from the area, unless some other place is designated for that purpose by the collector of customs.

(e) This section shall not apply to the entry of aircraft of scheduled airlines complying with the terms of § 6.4 nor to the clearance or departure of such aircraft complying with the terms of § 6.5, nor to the clearance of any aircraft holding a permit issued by the Secretary of Commerce authorizing departure without clearance.

§ 6.4 Entry of aircraft of scheduled airlines.

(a) Aircraft operated by scheduled airlines coming into any area from any place outside the United States shall be entered in the area of first landing.

(b) Aircraft operated by scheduled airlines coming from one area into another area shall be entered therein if carrying residue cargo (§ 6.9).

(c) Entry required by this section in an area shall be made at the place of landing provided for under § 6.2.

§ 6.5 Clearance of aircraft of scheduled airlines.

(a) Aircraft operated by scheduled airlines departing for any place outside the United States may clear from the area of departure, but clearance shall be mandatory only during any period covered by a proclamation of the President that a state of war exists between foreign nations, or the aircraft is—

(1) Beginning a flight in that area; or

(2) Carrying from that area merchandise which must be listed in its general clearance declaration (§ 6.8).

(b) Aircraft operated by scheduled airlines departing from one to another area shall clear in the area from which departing if carrying residue foreign cargo, and, when clearance is not required, if transporting merchandise from one to another area or from an area to possessions of the United States shall obtain permission to depart from the collector of customs when required for the purposes of regulations of the Bureau of the Census (15 CFR Part 30).

(c) Clearance required by this section or permission to depart may be obtained by the aircraft commander or an authorized person at the customs port of entry (whether or not an international airport) at or nearest each place at which merchandise or passengers, or both, are taken aboard for discharge beyond the area. In such case, the clearance, or permission to depart, shall be limited to the passengers and merchandise taken aboard at such place. Otherwise clearance, or permission to depart, shall be obtained at the customs port of entry (whether or not an international airport) at or nearest the place of last take-off in the area unless some other place is designated by the collector of customs.

§ 6.6 Documents; form.

(a) The forms described in §§ 6.7 and 6.8 shall be the primary documents required for entry and clearance of aircraft. The forms shall be approximately but not to exceed 8½" wide and 14" long and shall be on white bond paper that will not discolor or become brittle within 20 years. If these forms are dittoed or if the entries on them are to be dittoed, the paper must be substance 40, 17" x 22", 1,000-sheet basis; if printed or typewritten, at least 25 percent rag, substance 26, 17" x 22". 1,000-sheet basis.

[1a] Section 431, Tariff Act of 1930, as amended (19 U. S. C. 1431): "(b) Whenever a manifest of articles or persons on board an aircraft is required for customs purposes to be signed, or produced or delivered to a customs officer, the manifest may be signed, produced, or delivered by the pilot or person in charge of the aircraft, or by any other authorized agent of the owner or operator of the aircraft, subject to such regulations as the Secretary of the Treasury may prescribe. If any irregularity of omission or commission occurs in any way in respect of any such manifest, the owner or operator of the aircraft shall be liable for any fine or penalty prescribed by law in respect of such irregularity."

[2] Information regarding requirements under the regulations of the Departments of Commerce or State for licensing of aircraft departing from the United States, whether for temporary sojourn abroad or for export, may be obtained at any customhouse. Attention is specifically directed to § 371.25, Export Regulations, (15 CFR 371.25) which excepts departures of certain United States civil aircraft to certain destinations, including Cuba, from general license GATS, thereby requiring a validated license for such a flight. For licensing procedure for articles enumerated in the United States Munitions List, see 22 CFR Part 123.

These forms and the entries thereon must be dittoed, typewritten, or printed in the English language, with ink or dye that will not fade or "feather" within 20 years. The forms to be used for the entry and clearance of the aircraft, passengers, crew members, and merchandise carried thereon shall be forms approved by the Commissioner of Customs.

(b) The forms described in §§ 6.7 and 6.8 may be obtained from collectors of customs upon payment by the owner or operator of the aircraft. These forms may be printed or dittoed by private parties, provided the forms so printed or dittoed conform to the official forms currently in use, with respect to size, wording arrangement, style and size of type, and paper specifications. A small quantity of each of the forms shall be set aside by collectors of customs for free distribution and official use.

§ 6.7 Documents for entry.

(a) At the time any aircraft arriving from outside the areas of the United States lands in an area in which entry is required by § 6.3 or 6.4, the aircraft commander or an authorized person shall deliver an inward general declaration on customs Form 7507, or on a form conforming thereto, and shall show thereon all of the information called for by the official form, unless any of such information is otherwise furnished as provided in this section, and shall deliver any other applicable documents as specified in this section. If an aircraft proceeds from one to another area of the United States or from one to another port in the same area carrying residue cargo or uncleared passengers, the aircraft commander or an authorized person shall deliver the documents specified in § 6.9 (c) or (d).

(b) Some of the information called for by the official form of inward general declaration may be alternatively furnished as provided herein. Some of the documents specified herein may not be required on a separate sheet or form where it is indicated that the information required on such documents may be included with information on another document or form.

(1) Crew manifest: A crew manifest shall be furnished with the general declaration except upon arrival of an aircraft directly from Canada on a flight originating there in which case merely the total number of crewmembers need be shown on the inward general declaration. The crew manifest shall be furnished by showing the full name (surname, given name and middle initial) of each crewmember in the column headed "Total Number of Crew" on the inward general declaration, or by showing such names on a separate, appropriately identified document.

(2) Crew purchases: A crew purchase list shall be furnished with the general declaration. Articles entered by crewmembers not required to file crew declarations by paragraph (g) of this section shall be listed opposite the name of the crewmember on the general declaration or on a separate crew purchase list attached thereto. Any articles required by paragraph (g) of this section to be declared on Crew Declaration, customs Form 5123, need not be listed if such crew declarations are securely attached to the general declaration or attached list, and the following statement appears thereon:

Crew purchases as per attached Crew Declarations

In the case of an aircraft arriving direct from Canada on a flight which originated in that country, no crew purchase list shall be required, but any crew declarations shall be attached to the general declaration and the total number thereof shall be shown on the face of the general declaration with the figure for the total number of crew.

(3) A cargo manifest for all cargo on board shall be submitted with the general declaration. The cargo manifest shall be on customs Form 7509 except as otherwise provided in this paragraph.

(i) When Form 7509 is used, the full information called for by the official form shall be shown thereon except that the detailed information about the cargo shipped under air waybills may be furnished by securely attaching to the cargo manifest a copy of each air waybill, by listing the numbers thereof on the manifest, and by noting the statement "Cargo as per Air Waybills Attached" on the manifest.

(ii) Customs Form 5119 may be used as the cargo manifest if there is on board only cargo not exceeding $250 in value which is to be entered on such form.

(iii) Customs Form 7523 may be used as the cargo manifest if there is on board only cargo which may be entered on that form.

(iv) No cargo manifest is required for merchandise, including baggage and stores, arriving from and departing for a foreign country on the same through flight, although any such document on board may be inspected, except that any arms, ammunition, or implements of war on board which require a license issued by the Secretary of State shall be manifested on every arrival.

(v) On the cargo manifest or on a separate list attached thereto in which case the manifest shall bear the notation "Stores list attached," there shall be shown all alcoholic beverages, tobacco products, narcotic drugs, and bonded or foreign merchandise arriving as stores as well as all equipment of a type requiring a license as specified in subdivision (iv) of this subparagraph.

(vi) In the case of aircraft of scheduled airlines, domestic supplies and equipment not subject to license (unless subject to a duty equal to any internal-revenue tax from which such articles were previously excepted) and any fuel need not be included in the stores list if the statement "Domestic supplies and equipment and fuel for immediate flight only, except as noted" is noted on the cargo manifest or separate stores list attached thereto.

(vii) Unaccompanied baggage arriving in the United States under a check number from any foreign country by air shall be shown on the cargo manifest in columns under the following headings:

Check No.	Description of package	Where from	Destination

On the right of the foregoing columns two blanks columns, one headed "Name of examining officer" and on the right thereof another headed "Disposition," shall be provided on the cargo manifest for use of customs officers. Unaccompanied unchecked baggage arriving as air express or freight shall be manifested as other air express or freight.

(c) One copy of the general declaration and one copy of each attached manifest shall be delivered by the aircraft commander or an authorized person immediately to the customs officer in charge at the airport or other place of arrival.

(d) The provisions of section 466, Tariff Act of 1930, as amended (19 U. S. C. 257, 258), are applicable to any aircraft of United States registry engaged in trade and arriving in the United States, as defined in section 401 (k), Tariff Act of 1930, as amended (19 U. S. C. 1401 (k)), whether from a contiguous or noncontiguous foreign country, and a notation as to any equipment installed on, or repairs made to, any such aircraft in a foreign country shall be made in the aircraft journey log book, which shall set forth a general description of the equipment or repairs and a statement of any necessity therefor. The aircraft commander or an authorized person, on the first subsequent arrival of the aircraft in the United States, shall exhibit the journey log book to the customs officer at the place of arrival. A declaration on customs Form 3415, to the effect that no equipment was purchased, or repairs made, in a foreign country, shall not be required in any case for any such aircraft. Except as specified hereafter in this paragraph, any such equipment purchased or repairs made shall be subject to entry and deposit of duty as prescribed by § 4.14 of this chapter, but the following may be added to the entry in lieu of the filing of customs Form 3415:

This entry contains a complete account of the equipment purchased for and the repairs made to the within-mentioned aircraft during the flight covered hereby, together with the cost of such equipment and the expenses of such repairs (including the cost of installation of equipment and the cost of repair parts and material used). Application is hereby made for the ascertainment of the amount of duty due under section 466, Tariff Act of 1930, as amended.

(e) The filing of customs Form 3415 and entry and deposit of duty for equipment purchased for or repairs made to an aircraft belonging to a scheduled airline or to an air carrier generally authorized to operate contract passenger or cargo flights and operating between the United States and foreign territory shall not be required if (1) such equipment or repairs were made necessary by reason of stress of weather or other casualty occurring since the aircraft last left the United States and were required to secure the safety and airworthiness of the aircraft in accordance with Federal Aviation Agency regulations to enable the aircraft to continue its flight; or such equipment installed and materials used in making the repairs were of the growth, produce, or manufacture of the United States and the

work incident to such installation or repairs was performed by the regular crew of the aircraft or by residents of the United States, (2) the following statement is included on the general declaration or attached cargo manifest:

Entry for equipment purchased or repairs made to this aircraft while in a foreign country not required under section 6.7 (e) of the Customs Regulations.

and (3) the collector is satisfied from an inspection of the journey log book and such further investigation as he may deem necessary that the facts with respect to the installation of the equipment and making of repairs were as set forth in subparagraph (1) of this paragraph.

(f) The provisions of section 446, Tariff Act of 1930 (19 U.S.C. 1446), relating to supplies and stores retained on board, shall be applicable to aircraft arriving in the United States from any foreign port or place.

(g) Crew baggage declarations required by § 10.22 (b) of this chapter shall be filed by the officers and members of the crew of aircraft arriving from contiguous or noncontiguous foreign territory. A crew member may be permitted to make an oral declaration and entry if all articles he has to declare, in addition to articles for which no entry is required in accordance with § 23.4(c) of this chapter, may be admitted free of duty under section 321(a)(2)(B) of the Tariff Act of 1930, as amended. Written declarations may be required in any case if necessary to effect prompt and orderly clearance of crew members and their effects or if deemed necessary to protect the revenue. A nonresident crewmember leaving an aircraft to travel as a passenger or crewmember on another carrier which will take him to a place outside the United States and who desires to take with him to such place articles not exceeding $200 in value accompanying him for which he seeks free entry under item 812.40 Tariff Schedules of the United States shall follow the procedure set forth in § 10.22(d) of these regulations. When such a nonresident crewmember has any articles which he will claim as bona fide gifts under item 812.25, Tariff Schedules of the United States, he must follow the procedure for declaring such gifts set forth in § 10.22(c) of the regulations of this chapter.

(h) The provisions of section 440[24] and 584,[25] Tariff Act of 1930, as amended, relate respectively to post entry for correction of and to penalties for falsity or lack of a manifest. Those provisions are applicable to aircraft arriving from a place outside the United States with merchandise and unaccompanied baggage. An incorrect cargo manifest shall be corrected promptly. Post entry to add to a manifest any merchandise or unaccompanied baggage omitted from or which does not agree with the manifest may be made by the airline on a separate copy of the cargo manifest form marked or stamped "Post Entry." If not made on such a copy, a post entry shall be prepared by the airline on customs Form 5931, appropriately modified including deletion of the application to make post entry. A post entry shall be signed by the aircraft commander or an authorized person. Correction of a manifest to delete merchandise and unaccompanied baggage not on board the aircraft at the time of arrival may be made by submission of a separate copy of the cargo manifest form listing the merchandise and unaccompanied baggage not found, together with the reasons for the shortage. If not made on such a copy, an appropriately modified Form 5931 shall be used by the airline to make such corrections. The copy of the cargo manifest form or modified Form 5931 shall bear a signed declaration of the aircraft commander or an authorized person reading, "I declare to the best of my knowledge and belief that the shortage of merchandise described herein was not landed at this port for the reasons stated."

[24] "If there is any merchandise or baggage on board such vessel which is not included in or which does not agree with the manifest, the master of the vessel shall make a post entry thereof, and mail or deliver a copy to such employee as the Secretary of the Treasury shall designate and for failure so to do shall be liable to a penalty of $500." (Tariff Act of 1930, Sec. 440, as amended; 19 U. S. C. 1440.)

[25] "* * * if any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge or the owner of such vessel or vehicle shall be subject to a penalty of $500: Provided, That if the collector shall be satisfied that the manifest * * * is incorrect by reason of clerical error or other mistake and that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred. * * *;" (Tariff Act of 1930, sec. 584, as amended; 19 U. S. C. 1584.)

§ 6.8 Documents for clearance, or for certain departures.

(a) At the time of departure of any aircraft from any area from which clearance is required by § 6.3 or 6.5, the aircraft commander or an authorized person shall deliver to the customs officer in charge an outward general declaration and a cargo manifest and shipper's export declarations on Commerce Form 7525–V for all cargo on the aircraft (also for the aircraft itself if it is being exported from the United States for foreign account). Shipper's export declarations and any required cargo manifest may be filed pro forma if the aircraft is departing from the United States and prior to departure a proper bond is given, in which case the completed shipper's export declarations and the completed cargo manifest are to be delivered pursuant to the bond not later than the fourth day after departure: *Provided,* That, during any period covered by a proclamation of the President that a state of war exists between foreign nations, no aircraft shall be cleared for a foreign destination until the shipper's export declarations and completed cargo manifest shall have been filed with the customs officer in charge: *And provided further,* That no aircraft shall be cleared until the completed cargo manifest and all required shipper's export declarations have been filed with the customs officer in charge if the aircraft is departing on a flight from the United States directly or indirectly to Poland (including Danzig), a country or other destination in Subgroup A as specified in the Export Regulations (15 CFR 371.3), Cuba, Hong Kong, or Macao, unless clearance is authorized by the Commissioner of Customs. At the time of departure of an aircraft not required to clear which is transporting merchandise from one to another area or from an area to possessions of the United States, the documents prescribed in the regulations of the Bureau of the Census (15 CFR Part 30) must be filed before departure or a bond to produce the required documents timely and pro forma documents, when required by the collector of customs, as prescribed in 15 CFR 30.24 must be filed. Clearance of the aircraft on such a flight is not required unless foreign residue cargo is being carried (see § 6.9 of the regulations of this part), or unless the aircraft is of foreign registry and is not departing under the procedure provided for in § 6.2(d) or unless the aircraft is to proceed to a foreign destination thereafter.

(b) The outward general declaration shall be on customs Form 7507. Any cargo manifest required with such declaration shall be on customs Form 7509. The full information required by the official forms shall be shown thereon except as otherwise provided in this paragraph.

(1) In the case of shipments on an air waybill, a copy of each such document may be attached to the cargo manifest, the numbers of such air waybills listed in the body of the manifest, and the statement "Cargo as per Air Waybills Attached" noted on the manifest.

(2) On direct departures only, for shipments requiring a shipper's export declaration a copy of each export declaration may be attached to the cargo manifest. In such case the numbers of such declarations shall be listed on the cargo manifest in the column for air waybill numbers, and the statement "Cargo as per Export Declarations Attached" noted on the manifest.

(c) When the aircraft is departing directly from the United States, the general declaration required by this section shall be prepared in duplicate, with a single copy of each cargo manifest. In the case of clearance of a scheduled aircraft at an interior port two copies of each cargo manifest for cargo there laden are required if the aircraft is proceeding to another port before departure from the United States for a place outside thereof. For each shipment to be exported under an entry or withdrawal for exportation or for transportation and exportation, the outward manifest or the airway bill or consignment note attached to the manifest and made a part thereof shall clearly show for such shipment the number, date, and class of such customs entry or withdrawal (i.e. T. & E., Wd. T. & E., I.E., Wd. Ex., or Wd. T., as applicable) and the name of the port where the entry or withdrawal was filed if other than the port where the mer-

chandise is laden for exportation. One copy of the general declaration and each air cargo manifest shall be delivered by the aircraft commander or an authorized person to the customs officer in charge to be retained by him as a record of outward clearance.

(d) One copy of the general declaration for departure from the United States shall constitute a clearance certificate when endorsed by the customs officer in charge to show that clearance is granted. When a scheduled aircraft obtains clearance at a port other than the port at or nearest the place of last take-off, a copy of the cargo manifest shall be attached to and accompany the general declaration endorsed at such port for any necessary use at subsequent United States ports.

(e) In any case that merchandise (other than residue cargo which requires documentation in every instance as specified in § 6.9 of the regulations of this part) destined from one to another area of the United States is transported by aircraft on a direct flight between the areas, a cargo manifest shall be required only for any merchandise transported as cargo which is excepted from the filing of shipper's export declarations or for which shipper's export declarations cannot be timely filed. Any required cargo manifest and all required shipper's export declarations shall be filed with the collector of customs at the place of departure. For cargo requiring shipper's export declarations, a declaration shall be made on the cargo manifest, or if none is hereinbefore required by this section, then either on the form for a cargo manifest or the form for making a general declaration. This declaration shall state either "Attached Shipper's Export Declarations represent a full and complete enumeration and description of the cargo carried on this flight except that listed on the cargo manifests" or "All required cargo documents will be filed within the 4-day bond period." If the latter declaration is used, when the shipper's export declarations and any required cargo manifest are in fact filed they shall be accompanied by the following declaration:

Attached Shipper's Export Declarations represent a full and complete enumeration and description of the cargo carried on aircraft No. ------ flight No. ------ cleared direct for ---------- on ----------, except cargo listed on any cargo manifest required to be filed for such flight.

Airline ----------

Authorized Agent ----------

Customs officers may verify any of the above statements by examining the shipping records of the airline involved.

(R.S. 4197, as amended, R.S. 4200, as amended; 46 U.S.C. 91, 92)

§ 6.9 Residue cargo.[4]

(a) Aircraft arriving in the United States with cargo on board shown by the manifest to be destined to other ports in the same or in some other areas of the United States or outside the United States may be permitted to proceed with such cargo from port to port in the United States or to a foreign country for the unlading thereof under the procedure prescribed in paragraph (b) of this section, upon the giving of a bond on customs Form 7567 or 7569. When an aircraft arriving from outside the United States has on board no cargo and immediate clearance is requested, it may be permitted to proceed if a bond on customs Form 7567 or 7569 is on file covering such aircraft.

---

[4] "* * * Any vessel arriving from a foreign port or place having on board merchandise shown by the manifest to be destined to a port or ports in the United States other than the port of entry at which such vessel first arrived and made entry may proceed with such merchandise from port to port or from district to district for the unlading thereof." (19 U.S.C. 1442.)

"Merchandise arriving in any vessel for delivery in different districts or ports of entry shall be described in the manifest in the order of the districts or ports at or in which the same is to be unladen. Before any vessel arriving in the United States with any such merchandise shall depart from the port of first arrival, the master shall obtain from the collector a permit therefor with a certified copy of the vessel's manifest showing the quantities and particulars of the merchandise entered at such port of entry and of that remaining on board." (19 U.S.C. 1443.)

"Within twenty-four hours after the arrival of such vessel at another port of entry, the master shall report the arrival of his vessel to the collector at such port and shall produce the permit issued by the collector at the port of first arrival together with the certified copy of his manifest." (19 U.S.C. 1444.)

(b) When applying for clearance from the airport or place of first entry in an area of the United States, the aircraft commander or an authorized person shall present to the collector a traveling general declaration and manifest and an abstract general declaration and manifest. The traveling general declaration and manifest shall be one certified copy of the original inward general declaration and of each manifest or list required to be attached thereto at the time of entry (see § 6.7) of the aircraft. The abstract general declaration and manifest[5] shall be one copy of a general declaration and one copy of each manifest[6] forming a part thereof covering all foreign residue cargo not yet cleared by customs or other interested government agency and manifested or destined for discharge at other domestic or foreign ports. When crew purchases are not itemized on the crew purchase list because reference is made to "Crew declarations and entries attached," such declarations on customs Form 5123 of crewmembers who have not left the aircraft with their purchases at the port of first entry shall not be retained there but shall be attached to the traveling general declaration and manifest. Any such crew declaration shall be detached at the port where the articles covered thereby receive customs clearance. When all documents are in order a permit to proceed from one airport to another, which may be stamped, mimeographed, or printed on the abstract general declaration or on a separate sheet of paper attached thereto, shall be dated and signed by the appropriate customs officer at the airport of clearance. The documents presented by the aircraft commander or authorized person when applying for clearance shall be delivered to the aircraft commander, together with the permit to proceed, for deposit at the next international airport. The permit to proceed and a related declaration of the aircraft commander or an authorized person, to be executed on entry at the next airport, shall be substantially as follows:

---

[5] Other copies of abstract manifests may be required by other interested governmental agencies.

[6] Includes air waybills when part of the manifest.

PERMIT TO PROCEED FROM ONE AIRPORT TO ANOTHER

Airport of Departure ----------

Date ----------

Permission is hereby given aircraft ------ to proceed to ----------

(Next international airport)

The aircraft, which has arrived from and is destined to the places shown in the general declaration, is proceeding to such places of destination to discharge residue cargo, passengers, or crew members and their purchases, as listed in the attached manifests Bond was given at the initial international airport for the cargo retained on board. Items of cargo manifested for delivery at this airport appear to have been landed.

Number of crew members not cleared by Public Health for: Quarantine ------; medical examination of aliens -------.

Number of passengers not cleared by Public Health for: Quarantine ------; medical examination of aliens -------.

Number of crew members not cleared by Customs -------.

Number of passengers not cleared by Customs -------.

Number of pieces of cargo not cleared -------.

Customs officer (title)

DECLARATION ON ENTRY OF AIRCRAFT AT FOLLOWING AIRPORT

Airport of Arrival ----------

Date ----------

I, ----------, commander or authorized representative of the aircraft identified in this document, declare and guarantee that there were not, when such aircraft departed from the airport of ----------, nor have been since, nor now are, any more or other goods, wares, or merchandise on board than was stated in the manifests attached hereto.

Title ----------

(c) Upon arrival of the aircraft at the next airport (except when such airport is the last domestic port of discharge), the aircraft commander or an authorized person shall make entry by presenting the abstract general declaration and manifest and the traveling general declaration and manifest, together with the permit to proceed, to the customs officer after the declaration at the bottom of the permit to proceed has been properly executed. The declarations and entries of crew members (customs Form 5123) who leave the aircraft at that airport with their purchases shall be detached from the traveling manifest and retained at that port. Upon departure from the second airport of arrival with foreign residue cargo,

passengers, or crew members and their purchases not yet cleared by customs or other interested governmental agency, the procedure shall be the same as at the airport of first arrival, except that no new traveling general declaration and manifest shall be prepared, but the traveling general declaration and manifest as certified at the first international airport shall be delivered to the aircraft commander for deposit at the next airport of entry.

(d) The same procedure as above set forth shall be followed at any subsequent airport (except the last domestic port of discharge) to which the aircraft may proceed with foreign residue cargo, passengers, or crew members and their purchases not yet cleared by customs or other interested governmental agency. At the last domestic port of discharge no abstract manifest shall be required, and the traveling general declaration with one copy of each cargo manifest forming a part thereof shall be used for entering the aircraft, and shall be retained at such port.

(e) The provisions of this section shall be applicable to aircraft arriving in the United States from either contiguous or noncontiguous foreign territory. Except as specified in this section, the customs requirements applicable to residue vessel cargo (see § 4.85 of this chapter) shall apply to residue aircraft cargo.

§ 6.10 General provisions.

Except as otherwise provided for in this part, aircraft arriving from contiguous foreign territory and the persons and merchandise, including baggage, carried thereon shall be subject to the customs laws and regulations applicable to vehicles arriving from contiguous foreign territory; and aircraft and the passengers and merchandise, including baggage, carried thereon, arriving from any other place, shall be subject to the customs laws and regulations applicable to vessels so arriving, insofar as such laws and regulations are applicable to aircraft.

§ 6.11 Penalties.

Any person violating any customs requirements prescribed in this part or any provision of the customs laws or regulations made applicable to aircraft by § 6.10 shall be subject to a civil penalty of $500, and any aircraft used in connection with any such violation shall be subject to seizure and forfeiture, as provided for in the customs laws. Such penalty and forfeiture may be remitted or mitigated in accordance with the provisions of §§ 23.23 to 23.25 of this chapter.

§ 6.12 International airports; regulations.

(a) International airports will be designated after due investigation to establish the fact that a sufficient need exists in any particular district or area to justify such designation and to determine the airport best suited for such purpose.

(b) A specific airport will be designated in each case, rather than a general area or district which may include several airports.

(c) The designation as an international airport may be withdrawn if it is found that the volume of business clearing through the port does not justify maintenance of inspection equipment and personnel, if proper facilities are not provided and maintained by the airport, if the rules and regulations of the Federal Government are not complied with, or if it is found that some other location would be more advantageous.

(d) International airports shall be municipal airports, unless particular conditions which prevail warrant a departure from this requirement.

(e) Each international airport shall provide without cost to the Government suitable office and other space for the exclusive use of Federal officials connected with the port. A suitable surfaced loading area shall be provided by each airport at a convenient location with respect to such office space. Such loading area shall be reserved for the use of aircraft entering or clearing through the airport.

(f) International airports shall be open to all aircraft for entry and clearance purposes and no charge shall be made for the use of said airports for such purposes. However, in any case where an international airport authorizes any such aircraft to use such airport for the taking on or discharging of passengers or cargo, or as a base for other commercial operations or for private operations, this paragraph shall not be interpreted to mean that charges may not be made for such commercial or private use of such airport.

(g) All aircraft entering or clearing through an international airport shall receive the required servicing by airport personnel promptly and in the order of arrival or preparation for departure without discrimination. The charges made for such servicing shall in no case exceed the schedule of charges prevailing at the airport in question. A copy of said schedule of charges shall be posted in a conspicuous place at the office space provided for the use of Federal officials connected with the port.

(h) International airports shall adopt and enforce observance of such requirements for the operation of airports, including airport rules, as may be prescribed or recommended by the Federal Aviation Agency.

(i) Requirements in addition to all the foregoing may be imposed at a particular airport as the needs of the district or area to be served by the airport may demand.

§ 6.13 List of international airports.[1]

The following is a list of international airports of entry designated by the Secretary of the Treasury without time limit:

Location and Name

Akron, Ohio, Municipal Airport.
Albany, N. Y., Municipal Field.
Baudette, Minn., Baudette International Airport.
Bellingham, Wash., Bellingham Airport.
Brownsville, Tex., Rio Grande Valley International Airport.
Buffalo, N.Y., Greater Buffalo International Airport.
Burlington, Vt., Burlington Municipal Airport.
Calexico, Calif., Calexico Municipal Airport.
Caribou, Maine, Caribou Municipal Airport.
Chicago, Illinois, The Chicago Midway Airport.
Cleveland, Ohio, Cleveland Hopkins Airport.
Cut Bank, Mont., Cut Bank Airport.
Del Rio, Texas, Del Rio International Airport.
Detroit, Mich., Detroit Municipal Airport and Detroit Metropolitan Wayne County Airport.
Douglas, Ariz., Bisbee-Douglas Airport.
Duluth, Minn., Duluth International Airport and Sky Harbor Airport.
Eagle Pass, Tex., Eagle Pass Airport.
El Paso, Tex., El Paso International Airport.
Fort Lauderdale, Fla., Hollywood International Airport.
Friday Harbor, Wash., Friday Harbor.
Grand Forks, N. Dak., Grand Forks Municipal Airport.
Great Falls, Mont., Great Falls International Airport.
Havre, Mont., Havre-Hill County Airport.
International Falls, Minn., International Falls Municipal Airport.
Juneau, Alaska, Juneau Airport (seaplane base only) and Juneau Municipal Airport.
Ketchikan, Alaska, Ketchikan Airport (seaplane base only).
Key West, Fla., Meacham Field.
Laredo, Tex., Laredo Municipal Airport.
Malone, N. Y., Malone-Dufort Airport.
Massena, N. Y., Massena Airport.
McAllen, Tex., Miller International Airport
Miami, Fla., Chalks Flying Service Seaplane Base and Miami International Airport.
Minot, North Dakota, Minot International Airport.
Nogales, Ariz., Nogales International Airport.
Ogdensburg, N.Y., Ogdensburg Harbor and Ogdensburg Municipal Airport.
Oroville, Wash., Dorothy Scott Municipal Airport and Dorothy Scott Seaplane Base.
Pembina, N. Dak., Fort Pembina Airport.
Portal, N. Dak., Portal Airport.
Port Huron, Mich., St. Clair County Airport.
Port Townsend, Wash., Port Townsend Airport.
Put-in-Bay, Ohio, Put-in-Bay Airport.
Ranier, Minn., International Seaplane Base.
Rochester, N. Y., Rochester Municipal Airport.
Rouses Point, N. Y., Rouses Point Seaplane Base.
San Diego, Calif., San Diego Municipal Air-

[1] "(b) The Secretary of the Treasury is authorized to (1) designate places in the United States as ports of entry for civil aircraft arriving in the United States from any place outside thereof and for merchandise carried on such aircraft, (2) detail to ports of entry for civil aircraft such officers and employees of the customs service as he may deem necessary, and to confer or impose upon any officer or employee of the United States stationed at any such port of entry (with the consent of the head of the Government department or other agency under whose jurisdiction the officer or employee is serving) any of the powers, privileges, or duties conferred or imposed upon officers or employees of the customs service, and (3) by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the customs laws to such extent and upon such conditions as he deems necessary.

"(c) The Secretary of the Treasury is authorized by regulation to provide for the application to civil aircraft of the laws and regulations relating to the entry and clearance of vessels to such extent and upon such conditions as he deems necessary." (49 U.S.C. 1509(b), (c).)

Rouses Point, N. Y., Rouses Point Seaplane Base.

San Diego, Calif., San Diego Municipal Airport (Lindbergh Field).

Sandusky, Ohio, John G. Hinde Airport.

Sault Ste. Marie, Mich., Sault Ste. Marie Airport.

Seattle, Wash., Boeing Municipal Air Field and Lake Union.

Spokane, Wash., Felts Field.

Tampa, Fla., Tampa International Airport.

Tucson, Ariz., Tucson International Airport.

Watertown, N. Y., Watertown Municipal Airport.

West Palm Beach, Fla., Palm Beach International Airport.

Williston, N. Dak., Sloulin Field (Municipal).

Wrangell, Alaska, Wrangell Seaplane Base.

Yuma, Arizona, Yuma International Airport.

§ 6.15 Transportation in bond and merchandise in transit.

(a) The regulations in this section apply only to the transportation in bond of merchandise arriving in United States customs territory by aircraft and entered for immediate transportation without appraisement or for transportation and exportation by aircraft. Except as provided for herein, the regulations [9] applicable to transportation in bond and merchandise in transit shall apply to transportation of merchandise in bond by aircraft.

(b) *Procedure at port of origin.* (1) Customs Form 7512 shall be used as a combined entry and manifest. These forms shall be filed in quintuple and all copies shall be signed by the agent of the carrier.

(2) When merchandise is entered for immediate transportation without appraisement, two copies of the combined entry and manifest shall be delivered to the carrier to accompany the merchandise to the port of destination. When merchandise is entered for transportation and exportation, one copy of the combined entry and manifest shall be delivered to the carrier to accompany the merchandise to the port of destination.

(3) All such merchandise delivered to a bonded air carrier for transportation in bond shall be receipted for by an agent of the carrier and no supervision of the lading of the merchandise on the transporting aircraft shall be required.

(4) Merchandise covered by a single combined entry and manifest may be forwarded to destination on one aircraft or on more than one aircraft, and a separate manifest for each aircraft shall not be required if the entire shipment is forwarded within a single 24-hour period. When a portion of a shipment is forwarded on an aircraft departing more than 24 hours after the first portion of the shipment was forwarded, the original combined entry and manifest copy or copies accompanying the first portion of the shipment shall be endorsed to indicate that the remainder of the shipment will follow by separate aircraft, and a single manifest shall be prepared for each portion of the shipment which follows by separate aircraft and used as a notice of arrival at the port of destination.

(5) Merchandise forwarded in bond under the regulations in this part may be transshipped at an intermediate port to one or more aircraft of the same line without customs supervision and notice of such transshipment shall not be required. When merchandise covered by a single combined entry and manifest is transshipped to more than one aircraft the procedure specified in subparagraph (4) of this paragraph, shall be followed.

(6) The sealing of aircraft or compartments of aircraft carrying in-bond merchandise, or the cording and sealing of in-bond packages carried by aircraft, shall not be required. However, the carrier shall furnish and attach to each in-bond package the warning label prescribed by § 18.4 (e) of this chapter.

(c) *Procedure at the port of destination.* On arrival of an in-bond shipment at the port of destination, the aircraft commander, or an authorized person, shall deliver one copy of the combined entry and manifest which accompanied the shipment, or the copy of the manifest prepared for each portion of a shipment forwarded by separate aircraft which departed more than 24 hours after the first portion of the shipment, to the collector at that port as a notice of arrival. One copy of the entry and manifest which accompanied merchandise forwarded under an entry for immediate transportation without appraisement shall be delivered by the carrier to the consignee to be used in making entry. This copy may be endorsed as provided for by § 8.6 (c) of this chapter and used as a carrier's certificate.

§ 6.16 Certificate of lading for exportation.

The certificate of lading for exportation on customs Form 7512 or customs Form 7520 shall be executed at the place where the aircraft clearance covering such merchandise is obtained. In any case where the aircraft clearance is obtained at a place other than the place of last take-off from United States customs territory, as provided for by § 6.5 (c), the aircraft commander or an authorized person shall at each place of subsequent landing in United States customs territory prior to foreign departure (a) immediately report arrival with merchandise on board destined to be exported from bond to the customs officer at that place and (b) surrender the clearance certificate received at the place where such merchandise was taken on board to the customs officer to be retained until departure.[10]

§ 6.17 Alternate transportation procedures for air cargo subject to customs control.

Cargo (including manifested baggage) arriving by aircraft and to be transported subject to customs control in, through, or from the United States by aircraft must, if not transported in accordance with other provisions of the regulations of this part, be transported in bond in accordance with the applicable provisions of §§ 6.18 through 6.24. Such cargo so transported shall be referred to as "transit air cargo." For the purposes of these sections, the term "port of arrival" means the port in the United States at which the imported cargo must be documented for onward air transportation otherwise than as residue cargo, and the terms "transfer" or "transferred" mean the change to documentation of cargo as transit air cargo for transportation from the port of arrival; this may or may not involve a change of aircraft or airlines but when it does, such terms shall also include the physical movement of the cargo from one to another aircraft.

(Secs. 551, 552, 553, 46 Stat. 742, as amended; 19 U.S.C. 1551, 1552, 1553)

§ 6.18 Documentation for transit air cargo.

(a) Customs Form 7509, Air Cargo Manifest, printed, stamped, or labeled "Transit Air Cargo Manifest" must be used as the manifest for transit air cargo. The cargo manifest sheet in the inward cargo manifest of the importing aircraft and each copy thereof required for a transit air cargo movement must be so printed, stamped, or labeled. Each transit air cargo manifest sheet must be a duplicate, insofar as identification of the cargo and other data, of the corresponding manifest sheet in the inward cargo manifest presented for the aircraft on which the cargo arrives in the United States.

(b) Only air cargo shipments from one country of exportation, the name of which must be shown in the heading, may be listed on any one transit air cargo manifest sheet, or in lieu of such limitation the name of the country of exportation of each shipment must be shown in the "Nature of Goods" column. In addition thereto, only such shipments which are manifested by way of the port of arrival (1) to the same United States Customs port of destination, or (2) to the same United States Customs port for exportation therefrom, or (3) for direct exportation from the port of arrival may be listed on one transit air cargo manifest sheet.

(c) If manifest sheets are not prepared in accordance with paragraph (b) of this section, each cargo shipment manifested thereon, when required to be transported subject to customs control, must be transported beyond the port of arrival in accordance with other provisions of these regulations requiring individual documentation for the inward transportation or exportation of each shipment (see § 6.15 and Parts 5 and 18 of this chapter).

(d) When presented, each transit air cargo manifest sheet must show also (1) the foreign port of lading, (2) the date of arrival of the aircraft at the port of

[9] See Part 18 of this chapter.

[10] "If any merchandise entered or withdrawn for exportation without payment of duties thereon, * * *, is relanded at any place in the United States without entry having been made, such merchandise shall be considered as having been imported in the United States contrary to law, and each person concerned shall be fined not more than $5,000 or imprisoned not more than 2 years, or both; and such merchandise shall be forfeited." (18 U. S. C. 544.)

arrival, (3) the final country of destination of each shipment, or final port of destination in the United States of each shipment so destined, and (4) each United States port at which a customs function will be necessary by reason of these transit air cargo procedures. The destination outside the United States must be shown as the actual, ultimate country of destination indicated by available airline shipping documents even though the air transportation may be scheduled to terminate in a country prior to such ultimate destination.

(e) All transit air cargo other than that exported directly from the port of arrival must have affixed thereto before departure from the port of arrival the red warning label prescribed by § 18.4(e) of this chapter.

(f) The transit air cargo manifest must be furnished in the number of copies indicated below for the respective transportation movement:

(1) Three copies are required for transit air cargo destined for export directly from the port of arrival;

(2) Four copies are required for transit air cargo moving to a port of destination in the United States from the port of arrival;

(3) Seven copies are required for transit air cargo moving from the port of arrival to another United States port for exportation therefrom.

§ 6.19 Identification of transit air cargo manifest sheets.

Upon presentation of the inward cargo manifest of the aircraft on which the cargo arrives at the port of arrival, a manifest number must be assigned by Customs to the aircraft entry documents presented by the aircraft commander or authorized agent. That number must be used by the importing airline to identify all copies of transit air cargo manifests. The number must be given as a prefix an identification of the airport of arrival with the use of the 3-letter city or airport designator (the Air Traffic Service Location Identifier, as referred to by the Federal Aviation Agency); for example, "Idl–3758," or "Bos–296" as the case may be.

§ 6.20 Conditions for transportation of transit air cargo.

(a) As a condition for customs release for transportation of air cargo beyond the port of arrival as transit air cargo, all required copies of a transit air cargo manifest sheet must be identified as prescribed in § 6.19 prior to presentation to Customs.

(b) To proceed from the port of arrival as transit air cargo, air cargo must be receipted for in the manner prescribed in paragraph (d) of this section, within the lay order period or any authorized extension (see § 4.37 of this chapter), by the airline which will be responsible for transporting or exporting such cargo.

(c) Transit air cargo may be transported to another port only when receipted for by an airline designated as a common carrier for the transportation of bonded merchandise having on file an appropriate customs bond for such transportation. Transit air cargo may be exported from the port of arrival only when covered by an exportation bond on customs Form 7557 or 7559 as specified in § 18.25 of this chapter, or other appropriate bond. The responsibility of the receiving airline for transit air cargo otherwise than for direct exportation from the port of arrival begins when a receipt executed as prescribed in paragraph (d) of this section is presented to customs. The responsibility of the exporter of transit air cargo for direct exportation begins when a receipt executed as prescribed in paragraph (d) of this section is presented to customs. If any carting for delivery to a receiving airline is necessary prior to such time, the importing airline remains solely responsible for such cargo under its bond unless such carting is performed under the provisions of Part 21 of this chapter and at the expense of the parties in interest.

(d) Each copy of the transit air cargo manifest must bear the following statement legibly signed and dated, if required, when presented to customs:

Received the cargo listed herein for delivery to Customs at the port of destination or exportation shown above, or for direct exportation.

Name of Carrier (or Exporter)

Attorney or Agent of Carrier (or Exporter)

Date

(e) All cargo shipments listed on a transit air cargo manifest sheet must be receipted for by one airline and must be transported from the port of arrival on one aircraft except where the use of more than one aircraft would be permitted by § 6.15(b)(4) in the case of a single combined entry and manifest on customs Form 7512, or where the use of more than one aircraft is permitted as specified in § 6.24(f). Otherwise, all shipments on the transit air cargo manifest must be individually documented and transported under the regular procedures for transportation of merchandise in bond.

§ 6.21 Timely delivery and exportation.

(a) Transit air cargo destined to a final port of destination in the United States must be delivered to Customs at destination within 15 days from the date of receipt by the forwarding airline at the port of arrival.

(b) Transit air cargo destined for exportation at a port other than the port of arrival must be delivered to Customs at the port of exportation within 15 days from the date of receipt by the forwarding airline at the port of arrival. If all of the cargo shipments are not exported within the succeeding 15-day period, the individual cargo shipments must be made the subject of individual entries, as appropriate, at the port of exportation.

(c) In the case of transit air cargo to be exported from the port of arrival, exportation as transit air cargo must be required within 10 days from the date of receipt of the cargo by the exporting airline. After such 10-day period, the individual cargo shipments must be made the subject of individual entries, as appropriate.

§ 6.22 Transportation of transit air cargo to an interior port of destination.

(a) Air cargo shipments may be transferred for transportation as transit air cargo from the port of arrival, under such customs supervision as the collector deems necessary, to another port in the United States with the use of the following number of copies of transit air cargo manifest sheets:

(1) A "carrier manifest" copy to accompany the cargo shipments listed thereon and be delivered to Customs at destination;

(2) Three copies for presentation to Customs at the port of arrival at the time of entry of the arriving aircraft or at a subsequent time before expiration of the lay order period. One copy will be used as a "permit" copy by Customs at the port of arrival, one "mail manifest" copy will be mailed by Customs to the port of destination, and one "control" copy will be mailed to the headquarters port for the port of destination. These copies must be presented by or on behalf of the carrier receipting for the transportation of the cargo shipments to destination.

(b) At the port of destination Customs must use the carrier manifest copy for control by noting thereon the disposition of each cargo shipment listed.

(c) Transit air cargo is to be delivered to Customs at destination within 15 days of the date of receipt for it by the forwarding carrier at the port of arrival. When all or part of the cargo covered by the mail manifest copy received at destination from Customs at the port of arrival is not closed out after 30 days from its receipt by a posted carrier manifest copy, the collector of customs must inquire of the receipting carrier as to the whereabouts of the shipment or shipments not accounted for. He must in each case of failure to deliver or irregular delivery of all or part of the transit air cargo make a report to the port of arrival. The report must be made no later than 40 days from the date of receipt of the mail manifest copy. The report must be made to, and action promptly taken thereon by, Customs at the port of arrival in the manner specified in §§ 18.6 and 18.8 of this chapter, except that the report on customs Form 3861 must not indicate the amount of duty or tax due when the amount is in doubt. In such case, Customs at the port of arrival must make the determination of tax and duty due on information in the report, in the permit copy retained there, and any necessary information obtained from the carriers.

(d) Upon receipt of a written notice of failure to deliver, the airline which receipted for the transit cargo must be responsible for furnishing within 90 days to the collector of customs any data or documents available to it or to the importing airline concerning the description and value of the cargo shipments in question.

(e) Penalties imposed as liquidated damages under the common carrier's bond for shortage, failure to deliver, etc., must be the same as prescribed in § 18.8

of this chapter. Under that section the

(b) Upon arrival of the transit air shipment cannot be exported until an

of this chapter. Under that section the basis for the assessment of liquidated damages is the value of the merchandise. The transit air cargo manifest does not reflect value. Therefore, when it is necessary to determine the values of merchandise shipped as transit air cargo, the value must be determined by the collector on the basis of the data or documents specified in paragraph (d) of this section and such other information available to him relating to merchandise of the same or similar description or origin. However, when the data or documents required to be furnished by paragraph (d) of this section are not received within the 90-day period prescribed, the collector will make his determination of value on the basis of such other information available to him.

§ 6.23 Transportation of transit air cargo to another port for exportation.

(a) Air cargo shipments may be transferred for transportation as transit air cargo from the port of arrival, under such customs supervision as the collector deems necessary, to another port for exportation therefrom with the use of the following number of copies of transit air cargo manifest sheets:

(1) A "carrier manifest" copy to accompany the cargo shipments listed thereon and be delivered to Customs upon arrival of the shipments at the port of exportation;

(2) A copy which is stamped, labeled, or printed "diversion copy" in outline letters at least 1 inch in height to be attached to and accompany the carrier manifest copy and be delivered to Customs at the port of exportation;

(3) Three copies, called "permit", "mail manifest", and "control" copy, for presentation to Customs at the port of arrival either at the time of entry of the arriving aircraft or at a subsequent time before expiration of the lay order period. These copies must be presented by or on behalf of the airline receipting for the transportation of the cargo shipments from the port of arrival to the port of exportation for lading for export at such place;

(4) Two copies, called "Exportation" and "Clearance" copies, to be presented by the exporting airline to Customs at the port of exportation in connection with the exportation.

(b) Upon arrival of the transit air cargo shipments at the port of exportation, the transit air cargo may be delivered direct to the exporting carrier with the exportation and clearance copies after the name of such carrier is legibly noted on the carrier manifest and diversion copies and such copies are delivered to Customs.

(c) The exporting carrier will retain all cargo listed on a transit air cargo manifest in one place which must be separate from the specially designated area for storage of shipments coming within the provisions of paragraph (e) of this section. When the goods are ready for lading on the exporting aircraft, Customs will be notified sufficiently in advance so as to be able to make any required supervision of the lading of the cargo and any further checks for Federal Government purposes.

(d) When presented to Customs, the exportation and clearance copies must each show the exporting aircraft's number and flight number and date. The exporting airline must file these documents (including the clearance copies of transit air cargo manifests) for the departing aircraft. The clearance copies of air transit cargo manifests shall be grouped together in the outward manifest separately and not intermingled with other outward manifest pages. The exportation copies shall be grouped together separately from the outward clearance documents.

(e) The customs officer receiving the carrier manifest and diversion copies of the transit air cargo manifest must review them for export licensing requirements of the Secretary of State covering arms, ammunitions, and implements of war, and of the Bureau of International Programs, Department of Commerce. A shipment for which the manifest information is not adequate to enable the officer to determine that no licensing or other requirements are applicable to the particular transit air cargo must be checked either by examination or by inspecting the air waybill or accompanying invoice. In this case, in order not to delay the onward movement of other goods, this shipment may be struck from the transit air cargo manifest and the remaining shipments may proceed. If a licensing or other requirement is found applicable, the exporting airline must be immediately notified that the particular shipment cannot be exported until an appropriate license or approval is obtained. This shipment must be placed under constructive customs custody in a specially designated area of the exporting airline's cargo terminal for such shipments until the necessary customs or other approval for shipment is obtained.

(f) The diversion copy of each transit air cargo manifest sheet must be sent by the port of diversion, with an endorsement of exportation showing the port, date, and exporting carrier, to the port of indicated exportation when all cargo shipments listed thereon have been exported at the port of diversion. It shall normally be sent as soon as the exportation copy or copies are presented at the port of exportation and are attached to the carrier manifest, and it is verified that all shipments listed thereon are exported. If exceptions are found by Customs at the port of exportation, they must be noted on the diversion copy before it is sent. However, if the carrier's manifest copy is not fully closed out at the port of diversion within 30 days from the date of the carrier's receipt on the carrier manifest and diversion copies, the diversion copy must be immediately sent to the port of indicated exportation to forestall a report to the port of arrival (see paragraph (g) of this section). The diversion copy must be noted before sending, "Exportation copy not yet received—further report will follow if necessary."

(g) When the mail manifest copy is received, Customs will file it according to identification number (see § 6.19); that is, numerically by port of arrival. When all or part of the cargo covered by a mail manifest copy is not closed out by an exportation copy, or a diversion copy endorsed by Customs at another port, within 40 days from the date of receipt of the mail manifest copy, the collector of customs must, without making inquiry of any carrier, make an appropriate report to the port of arrival and this report must be processed and action taken in accordance with § 6.22 (c), (d), and (e) of these regulations.

(h) If all of the cargo listed on one transit air cargo manifest sheet is not laden for exportation from the same port in the United States by the same airline, individual entries on customs Form 7512 for transportation and exportation in accordance with § 6.15 or for direct exportation in accordance with § 18.25 of this chapter must be required for each cargo shipment listed on such transit air cargo manifest sheet. Until all cargo shipments covered by one transit air cargo manifest are received at a port for exportation, none may be exported except under individual entries. If it is necessary to export on more than one aircraft of the same airline the cargo shipments listed on one transit air cargo manifest sheet, the procedure in § 6.24(f) shall be applicable. When individual entries are required or the cargo is exported at the same port on more than one aircraft, the carrier manifest copy will be posted and used by Customs as in the case of the carrier manifest for cargo destined to a port of destination in the United States (see § 6.22(b)).

§ 6.24 Exportation of transit air cargo at port of arrival.

(a) Transit air cargo may be transferred for exportation at the port of arrival in the United States with the use of three copies of the transit air cargo manifest; a "review" copy, an "exportation" copy, and a "clearance" copy.

(b) At the port of arrival, transit air cargo may be transferred for exportation immediately: *Provided*, (1) That, as soon as it is known to which airline cargo shipments will be transferred for exportation, the importing airline files with Customs a copy of each transit air cargo manifest sheet covering such cargo shipments, which copy need not be receipted by the airline to which the cargo will be transferred, but the name of the exporting airline must be inserted on such review copy by the importing airline; and (2) that the transfer is subject to supervision, examination of cargo, manifest review, etc., as may be required for compliance with regulations of other Federal agencies.

(c) The exportation copy and the clearance copy must be filed with Customs by or on behalf of the exporting airline which receipts for the shipments. The clearance copy must be presented with and retained in the departing aircraft's clearance documents. The exportation copy must be presented at the time the clearance documents are presented to Customs. Both copies must, in addition to bearing the receipt of the exporting airline, show the exporting aircraft's number, flight number, and date.

(d) Upon receipt of the review copy of the transit air cargo manifest sheets, Customs must make the review prescribed in the case of the carrier manifest copy in § 6.23(e). The reviewing officer must take appropriate action if a license is found to be applicable for any cargo. The exporting airline will be notified to place under constructive customs custody any transit air cargo shipment subject to special license. The exporting airline must then place any transit air cargo shipment subject to special license in a specially designated area of its cargo terminal until the necessary license is obtained.

(e) When exportation copies are filed, Customs must use them to close out the transit air cargo manifest sheets in the inward manifest of the aircraft on which the transit air cargo arrived at the port.

(f) If all transit air cargo shipments listed on any one transit air cargo manifest sheet are not exported directly on the same aircraft, an additional exportation and clearance copy must be required for each shipment or group of shipments listed thereon departing on any other aircraft of the exporting airline. In this event, each copy of the transit air cargo manifest sheet must be clearly marked to show which shipment or shipments listed thereon are covered thereby.

(g) Separate export entries on customs Form 7512 in accordance with § 18.25 of this chapter must be required for all shipments listed on any one transit air cargo manifest sheet if not all such shipments are exported from the same port by the same aircarrier. When separate export entries are required, the copy of the transit air cargo manifest sheet in the inward manifest of the importing aircarrier must be posted as in the case of the carrier manifest for cargo destined to a port of destination in the United States (see § 6.22(b)).

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION [1]

Sec.

7.1 Puerto Rico; spirits and wines withdrawn from warehouse for shipment to; duty on foreign-grown coffee.
7.8 Insular possessions of the United States other than Puerto Rico.
7.11 Guantanamo Bay Naval Station.

AUTHORITY: §§ 7.1 to 7.11 issued under R. S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 19 U.S.C. 66, 1624; Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 7.1 Puerto Rico; spirits and wines withdrawn from warehouse for shipment to; duty on foreign-grown coffee.

(a) When spirits and wines are withdrawn from a bonded manufacturing warehouse for shipment in bond to Puerto Rico pursuant to section 311, Tariff Act of 1930, as amended,[2] the warehouse withdrawal shall contain on the face thereof a statement of the kind and quantity of all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines. The duty assessed on the imported merchandise and containers so used, and their classification and value, shall be shown on the withdrawal in accordance with § 8.34 of this chapter. If no imported merchandise or containers have been used, the warehouse withdrawal shall bear an endorsement to that effect. (See § 22.26 of this chapter.)

(b) The spirits and wines shall be forwarded in accordance with the general provisions of the regulations governing the transportation of merchandise in bond, Part 18 of this chapter.

(c) A regular entry shall be made for all foreign-grown coffee shipped to Puerto Rico from the United States, but special customs invoices shall not be required for such shipments.[3]

(Secs. 311, 319, 484 (a), 46 Stat. 691, as amended, 696, 722, as amended; 19 U. S. C. 1311, 1319, 1484 (a))

§ 7.8 Insular possessions of the United States other than Puerto Rico.

(a) When articles coming directly into the United States from an insular possession, other than Puerto Rico, in a shipment valued over $25 are sought to be admitted free of duty under the provisions of General Headnote 3(a), Tariff Schedules of the United States,[14] relat-

---

[1] "All laws affecting imports of articles, goods, wares, and merchandise from foreign countries shall apply to articles, goods, wares, and merchandise and persons coming from the Canal Zone, Isthmus of Panama, and seeking entry into any State or Territory of the United States or the District of Columbia." (33 Stat. 843; 19 U. S. C. 126)

The customs administration of the said Canal Zone is under the jurisdiction of the Governor of the Panama Canal. (T. D.'s 26163, 28815, 30254, 30448, 39402, C. D. 530)

For the treaty between the United States and the Republic of Panama see 33 Stat. 2234.

[2] " * * * Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class six, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of this section and may be withdrawn as hereinbefore provided, and likewise for shipment in bond to Puerto Rico, subject to the provisions of this section, and under such regulations as the Secretary of the Treasury may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: *Provided*, That upon withdrawal in Puerto Rico for consumption, the duties imposed by the customs laws of the United States shall be collected on all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines in such warehouses: *Provided further*, That no internal-revenue tax shall be imposed on distilled spirits and wines rectified in class six warehouses if such distilled spirits and wines are exported or shipped in accordance with the provisions of this section, * * *." (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

[3] Section 319, Tariff Act of 1930, authorizes the Legislature of Puerto Rico to impose a duty on coffee imported into Puerto Rico, including coffee grown in a foreign country coming into Puerto Rico from the United States, and the Legislature of Puerto Rico has imposed such a duty.

[14] "(i) Articles imported from insular possessions of the United States which are outside the customs territory of the United States are subject to the rates of duty set forth in column numbered 1 of the schedules, except that all articles the growth or product of any such possession, or manufactured or produced in any such possession from materials the growth, product, or manufacture of any such possession or of the

---

ing to certain articles produced in such insular possessions, there shall be filed value of more than 50 per centum of Such certificate and declaration shall

ing to certain articles produced in such insular possessions, there shall be filed in connection with the entry a certificate of origin covering articles shipped from insular possessions (except Puerto Rico) to the United States, customs Form 3229, signed by the chief or assistant chief customs officer at the port of shipment,[15] showing that such merchandise is the growth or product of such possession, or manufactured or produced in such possession, from materials the growth, product, or manufacture of any such possession or of the United States, or of both, which do not contain foreign materials to the value of more than 50 per centum of their total value. Such certificate shall not be required for any shipment valued at $25 or less.

(b) When articles coming directly into the United States from an insular possession, other than Puerto Rico, in a shipment valued over $25 are sought to be admitted free of duty under the provisions of General Headnote 3(a), Tariff Schedules of the United States relating to certain articles returned to the United States, there shall be filed in connection with the entry the following evidence:

(1) A certificate, customs Form 4467, of the collector of customs at the port from which the merchandise was shipped from the United States, except that no such certificate shall be required if the collector is satisfied by reason of the nature of the articles or otherwise that no drawback of duties or refund or remission of taxes was allowed on the merchandise by reason of such shipment. This certificate shall be issued on application of the importer, or of the collector at the importer's request, and shall be mailed by the issuing officer directly to the port at which it is to be used. If the merchandise was shipped from the port at which entry is made and the fact of shipment appears on the records of the customhouse, the fact of return shall be noted on such record but the filing of the certificate on Form 4467 shall not be required.

(2) A declaration of the shipper in the insular possession in the following form:

I, _____ of _____, do hereby declare that to the best of my knowledge and belief the articles identified below were sent directly from the United States on _____, 19____, to _____ _____, of _____, on
(Insular possession)
the _____, and that the
(Name of carrier)
articles remained in said insular possession until shipped by me directly to the United States via the _____
(Name of carrier)
on _____, 19_____.

Marks	Numbers	Quantity	Description	Value

Dated at _____, this _____ day of _____, 19___.

_____
(Shipper)

Such certificate and declaration shall not be required for shipments valued at $25 or less, or in any case where the collector is satisfied by reason of the nature of the articles or otherwise that they were shipped directly to the insular possession and were returned therefrom by direct shipment, and that no drawback of duties or refund or remission of taxes was allowed when the articles were shipped from the United States.

(c) When merchandise, excluding any shipments valued at $25 or less, arrives unaccompanied by a certificate of origin or a declaration of the shipper, or when any other document necessary to complete entry is lacking, a bond for the production thereof may be taken on customs Form 7551, 7553, or other appropriate form, except that a bond for production of a bill of lading shall be taken on customs Form 7581.

(d) In determining whether an article produced or manufactured in any such insular possession contains foreign materials to the value of more than 50 per centum, a comparison shall be made between the actual purchase price of the foreign materials (excluding any material which at the time such article is entered, or withdrawn from warehouse, for consumption in the United States, may be imported into the United States from a foreign country, other than Cuba or the Philippine Republic, free of duty), plus the cost of transportation to such insular possession (but excluding duties and taxes, if any, assessed by the insular possession and any charges which may accrue after landing), and the final appraised value in the United States determined in accordance with section 402, Tariff Act of 1930, as amended, of the article brought into the United States.

(e) A special customs invoice shall be required in connection with each shipment of dutiable merchandise valued over $500 unless the shipment would have been exempt from the requirement of a special customs invoice under § 8.15 of this chapter if it had been imported from a foreign country, or when the shipment is covered by a certificate of origin provided for in paragraph (a) of this section.

(f) Merchandise may be withdrawn from bonded warehouse under section 557, Tariff Act of 1930, as amended, for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the Island of Guam, without payment of duty, or with refund of duty if the duties have been paid thereon, in like manner as for exportation to foreign countries. No drawback may be allowed under section 313, Tariff Act of 1930, as amended, on articles manufactured or produced in the United States and shipped to any insular possession. No drawback of internal-revenue tax is allowable under section 313 of the Tariff Act on articles manufactured or produced in the United States with the use of domestic tax-paid alcohol and shipped to Wake Island, Midway Islands, Kingman Reef, or Johnston Island. (See § 22.22 of this chapter.)

(Secs. 309, 313, 482(f), 557, 46 Stat. 690, as amended, 693, as amended, 720, 744, as amended, sec. 101, 76 Stat. 72; 19 U.S.C. 1309, 1313, 1482(f), 1557; Gen. hdnote. 3(a), Tariff Schedules of the United States)

§ 7.11 Guantanamo Bay Naval Station.

Articles of foreign origin may enter the area (both land and water) of the Guantanamo Bay Naval Station free of duty, but such articles shall be subject to duty upon their subsequent entry into the United States.

---

customs territory of the United States, or of both, which do not contain foreign materials to the value of more than 50 percent of their total value, coming to the customs territory of the United States directly from any such possession, and all articles previously imported into the customs territory of the United States with payment of all applicable duties and taxes imposed upon or by reason of importation which were shipped from the United States, without remission, refund, or drawback of such duties or taxes, directly to the possession from which they are being returned by direct shipment, are exempt from duty.

"(ii) In determining whether an article produced or manufactured in any such insular possession contains foreign materials to the value of more than 50 percent, no material shall be considered foreign which, at the time such article is entered, may be imported into the customs territory from a foreign country, other than Cuba or the Philippine Republic, and entered free of duty." (General Headnote 3(a), Tariff Schedules of the United States.)

[15] Guam, Wake Island, Midway Islands, Kingman Reef, Johnston Island and American Samoa are American territory, but not within the customs territory of the United States. Importations into those islands are not governed by the Tariff Act of 1930 or these customs regulations. The customs administration of American Samoa is under the jurisdiction of the Department of the Interior (Office of Territories). The customs administration of Wake Island is under the jurisdiction of the Department of Commerce (Civil Aeronautics Administration). The customs administration of Midway Islands is under the jurisdiction of the Department of the Navy. The customs administration of Guam is under the Government of Guam. A certificate signed by the Commander at the Johnston Island Air Force Base, or his assistant, shall be acceptable as proof of origin. Kingman Reef is understood to be uninhabited.

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

LIABILITY FOR DUTIES

Sec.
8.1 Liability of importer for duties.
8.2 Reimportation; liability for duties on.

ENTRY

8.3 Entry required; exceptions.
8.4 Preliminary examination of entry papers; making entry or withdrawal; applicable rate of duty; date of importation.
8.5 Examination of merchandise before entry for consumption or warehouse.
8.6 Evidence of right to make entry; legal representative of consignee; nonresident consignee; foreign corporation; underwriters and salvors.
8.7 Disposition of bill of lading or carrier's certificate.
8.8 Requirements on entry.
8.9 Entry without required invoice.
8.11 Invoice to be for single shipment; extracts from invoices.
8.12 Invoices for installment shipments arriving within a period of 7 days; entry.
8.13 Contents of invoices; incomplete invoices; general requirements supplemented.
8.15 Special customs invoices required; exceptions.
8.16 Entered value; importers may add to or deduct from the invoice value.
8.18 Declaration on entry.
8.19 Powers of attorney.
8.20 Incomplete entry; bonds for the production of documents.
8.21 Estimation of duties; classification.
8.22 Designation of merchandise to be examined.
8.23 Release of merchandise.
8.24 Release of merchandise in customs custody after liquidation; merchandise refused by consignee.
8.25 Liens for freight, charges, or contribution in general average.
8.26 Recall of merchandise released from customs custody; requests of appraiser for additional packages or quantities.

ENTRY FOR CONSUMPTION

8.27 Form of entry.
8.28 Release under bond; deposit of estimated duties; permit.
8.29 Release of packages.

ENTRY FOR WAREHOUSE

8.30 Form and contents; articles entitled to entry.
8.31 Estimation of duties; bond.
8.32 Liability of importers and sureties.

ENTRY FOR REWAREHOUSE

Sec.
8.33 Procedure.
8.34 Value and classification; protest.

COMBINED ENTRY FOR REWAREHOUSE AND WITHDRAWAL FOR CONSUMPTION

8.35 Form; procedure.

EXPORTATION UNDER WAREHOUSE WITHDRAWAL FOR TRANSPORTATION

8.36 Procedure.

WITHDRAWAL AT ORIGINAL OR SECONDARY PORT FOR CONSUMPTION

8.37 Withdrawal; form and contents.
8.38 Withdrawal; when completed.
8.39 Withdrawal by transferee.
8.40 Withdrawals before and after liquidation.

WITHDRAWAL AT ORIGINAL OR SECONDARY PORT FOR EXPORTATION

8.41 Form and contents; goods not laden.
8.43 Weight, gauge, or measure.
8.45 Parcel-post packages.

ORES; CRUDE COPPER-BEARING MATERIALS; CRUDE METALS

8.46 Entry and sampling of ores and crude metals not for smelting in bond.
8.48 Sampling and assaying.

ENTRY FOR EXPORTATION, ENTRY BY APPRAISEMENT, INFORMAL ENTRIES, AND PACKED PACKAGES

8.49 Entry for exportation; exportation of rejected merchandise.
8.50 Entry by appraisement.
8.51 Informal entries.
8.51a Entry of certain shipments of unconditionally or conditionally free merchandise.
8.52 Packed packages; marking; entry; when entry not required.

LANDING AND DELIVERY OF ARTICLES FOR WHICH IMMEDIATE DELIVERY IS NECESSARY

8.59 Application; entry; procedure.

AUTHORITY: §§ 8.1 to 8.59 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

LIABILITY FOR DUTIES

§ 8.1 Liability of importer for duties.

(a) Unless otherwise specially provided for by law, duties accrue upon imported merchandise on arrival of the importing vessel within a customs port with intent then and there to unlade, or at the time of arrival within the limits of the United States if the merchandise arrives otherwise than by vessel.

(b) Unless relieved by law or regulations, the liability for duties, both regular and additional, attaching on importation constitutes a personal debt due from the importer to the United States which can be discharged only by payment in full of all duties legally accruing. It may be enforced notwithstanding the fact that an erroneous construction of law or regulation may have enabled the importer to pass his goods through the customhouse without such payment. It also constitutes a lien upon the merchandise imported which may be enforced while such merchandise is in the custody or subject to the control of the United States.

(c) In case of the importer's death or insolvency, the Government's claim against his estate for unpaid duties has priority over obligations to creditors other than the United States.[1]

(d) The States and their instrumentalities are entitled to no constitutional exemption from the payment of customs duties.

§ 8.2 Reimportation; liability for duties on.

Dutiable merchandise imported and afterwards exported, although duty thereon may have been paid on the first importation, is liable to duty on every subsequent importation into the United States; but this does not apply to:

(a) Personal and household effects taken abroad by a resident of the United States and brought back on his return to this country (see § 10.17(a) of this chapter);

(b) Professional books, implements, instruments, and tools of trade, occupation, or employment taken abroad by any individual and brought back on his return to this country (see § 10.15 of this chapter);

(c) Automobiles and other vehicles taken abroad for noncommercial use (see § 10.42 of this chapter);

(d) Steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, or other substantial outer containers exported from the United States empty and returned as usual containers or coverings of merchandise, or exported filled with products of the United States and returned empty or as the usual containers or coverings of merchandise (see § 10.7 (b), (c), (d), and (e) of this chapter);

(e) Articles exported from the United States for repairs or alterations, which may be returned upon the payment of duty on the value of the repairs or alterations at the rate or rates which would otherwise apply to the articles in their repaired or altered conditions (see § 10.8 of this chapter);

(f) Articles exported for exhibition under certain conditions (see §§ 10.66 and 10.67 of this chapter);

(g) Domestic animals taken abroad for temporary pasturage purposes and returned within 8 months (see § 10.74 of this chapter);

(h) Articles exported under lease to a foreign manufacturer (see § 10.108 of this chapter); or

(i) Any other reimported articles the free entry of which is specifically provided for.

ENTRY

§ 8.3 Entry required; exceptions.

(a) Entry, as required by section 484(a), Tariff Act of 1930, as amended,[2]

---

[1] "Whenever any person indebted to the United States is insolvent, or whenever the estate of any deceased debtor, in the hands of the executors or administrators, is insufficient to pay all the debts due from the deceased, the debts due to the United States shall be first satisfied; and the priority established shall extend as well to cases in which a debtor, not having sufficient property to pay all his debts, makes a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed, or absent debtor are attached by process of law, as to cases in which an act of bankruptcy is committed." (31 U. S. C. 191)

"Every executor, administrator, or assignee, or other person, who pays, * * * any debt due by the person or estate for whom or for which he acts before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate * * * for the debts so due to the United States, or for so much thereof as may remain due and unpaid." (31 U. S. C. 192)

[2] "Except as provided in sections 490, 498, 552, and 553 and in subdivision (j) of section 336 of this Act, and in subdivisions (h) and (i) of this section, the consignee of imported merchandise shall make entry therefor either in person or by an agent authorized by him in writing under such regulations as the Secretary of the Treasury may prescribe. Such entry shall be made at the customhouse within five days, exclusive of Sundays and

shall be made of every importation, whether free or dutiable and regardless of value, unless the importation is specifically exempted by statute or regulations from the requirement that it be entered. (See paragraphs (b) and (c) of this section, and §§ 8.52, 9.3(b), and 9.6 of this chapter.)

(b) The collector shall pass free of duty and internal-revenue tax, and without the preparation of an entry, any importation having a value not exceeding $1, unless he has reason to believe that the shipment is one of several lots covered by a single order or contract and that it was sent separately for the express purpose of securing free entry therefor or of avoiding compliance with any pertinent law or regulation. (See § 10.21 (i) of this chapter.)

(c) The collector shall pass free of duty and internal-revenue tax, and without the preparation of an entry, any article sent as a bona fide gift from a person in a foreign country to a person in the United States, provided the aggregate value of such articles received by one person on one day does not exceed $10. An article is "sent" for purposes of this paragraph if it is conveyed in any manner other than on the person or in the accompanied or unaccompanied baggage of the donor or donee.

(d) Customs officers shall be further guided as follows in determining whether an article or parcel shall be exempted from duty or tax under this section:

(1) A "bona fide gift" for purposes of section 321 (a) (2) (A), Tariff Act of 1930, as amended, is an article formerly owned by a donor (may be a commercial firm) who gave it outright in its entirety to a donee without compensation or promise of compensation. It does not include articles acquired by purchase, barter, promissory exchange, or similar transaction, nor does it include articles said to be "given" in conjunction with a purchase, barter, promissory exchange, or similar transaction, such as a so-called "bonus article."

(2) A parcel addressed to a person in the United States from an individual in a foreign country which contains a gift should be clearly marked on the outside to indicate that it contains a gift. Such marking is not conclusive evidence of a gift nor is the absence of such marking conclusive evidence that an article is not a gift. Ordinarily an article not exceeding $10 in value sent from a person in a foreign country to a person in the United States will be recognizable as a gift from the nature of the article and the obvious facts surrounding the shipment.

(3) A parcel addressed to a person in the United States from a business firm in a foreign country would ordinarily not contain a gift from a donor in the foreign country. When such a parcel in fact contains an article entitled to free entry under section 321 (a) (2) (A), the parcel should be clearly marked to indicate that it contains such a gift and a statement to this effect should be enclosed in the parcel.

(4) Consolidated shipments addressed to one consignee shall be treated for purposes of this section as one importation. The foregoing shall not apply to shipments of bona fide gifts consolidated abroad for shipment to the United States when: (i) The consolidation for shipment to the United States is in a cargo van or similar containerization which is consigned to a common carrier, freight forwarder, freight handler, or other public service agency for distribution of the gift packages; (ii) the separate gifts not exceeding $10 in value included in the consolidated shipment are before shipment individually wrapped and addressed to the donee in the United States; (iii) each gift package is marked on the outside to indicate that it contains a gift not exceeding $10 in value; and (iv) each gift package is separately listed in the name of the addressee-donee on a packing list, manifest, bill of lading, or other shipping document.

(5) No alcoholic beverage, perfume containing alcohol (except where the aggregate value of all merchandise contained in the shipment does not exceed $1), or tobacco product shall be exempted from the payment of duty and tax under this section.

(6) The exemptions provided for in section 321, Tariff Act of 1930, as amended, are not to be allowed in respect of any shipment containing one or more gifts having an aggregate value in excess of $10, except as indicated in § 8.3(d)(4). For example, an article ordinarily subject to an ad valorem rate of duty but sent as a gift, if valued at $11, would be subject to a duty based upon its full value rather than a value of $1.

(7) The exemption referred to in section 321(a)(2)(C) is not to be allowed in the case of any merchandise of a class or kind provided for in any absolute or tariff-rate quota, whether the quota is open or closed. In the case of merchandise of a class or kind provided for in a tariff-rate quota, the merchandise is subject to the rate of duty in effect on the date of entry.

(Secs. 484(a), 498, 505, 46 Stat. 722, as amended, 728, as amended, 732, sec. 7, 52 Stat. 1081, as amended; 19 U.S.C. 1321, 1484(a), 1498, 1505)

§ 8.4 Preliminary examination of entry papers; making entry or withdrawal; applicable rate of duty; date of importation.

(a) Formal entry papers may be presented at the customhouse for preliminary examination within such period of time prior to the arrival of the merchandise within the limits of the port where the merchandise is to be entered as may be fixed by the collector of customs. The entry papers shall not be considered to be "deposited" or "accepted", nor shall the merchandise covered thereby be considered to be entered within the meaning of the law or regulations applicable to the entry of the merchandise, until after the arrival of the merchandise within the limits of the port of entry and the subsequent deposit of estimated duties or subsequent official determination that no deposit is required. After presentation of such entry papers and before entry of the merchandise, the importer shall not be permitted to pay the duties and taxes, if any are estimated to be due, and shall not be permitted to know about, or to have access to, any paper which would disclose what packages will be designated for examination, but he may recall the entry papers at any time during this period, in which case the collector shall destroy the summary sheet, permit, and any other document on which the designation of examination packages is indicated. Except at the port of New York, such entry papers shall not be numbered or dated prior to entry of the merchandise; at New York they may be numbered but shall not be dated. The foregoing provisions shall not be applicable to merchandise which is to be released under the immediate delivery procedure (see § 8.59), merchandise subject to a quantitative or tariff-rate quota, merchandise which is to be entered at a customs station, or any merchandise to be covered by an informal entry.

(b) Except as provided for hereinafter in this paragraph, no entry or withdrawal form shall be presented to a customs entry officer at any time when the customhouse is not open for the general transaction of business. With respect to merchandise for which the rate of duty changes each year on fixed dates, when the last day upon which such merchandise may be entered at a lower rate of duty falls on a Saturday, Sunday, or legal holiday, an entry or withdrawal for consumption may be accepted on such day provided the entry or withdrawal is tendered at a time when overtime services of the customs officers concerned are reimbursable and the person desiring to make the entry or withdrawal has applied for overtime services in accordance with § 24.16 of this chapter. When the last day upon which the merchandise may be entered or withdrawn at the lower rate of duty falls on a day when customs offices are open for the general transaction of business, an entry or withdrawal for consumption on such day may be accepted and processed after 5 p. m., provided the person desiring to make the entry or withdrawal has applied for overtime services in accordance with § 24.16 of this chapter.

(c) Except in the case of merchandise subject to a quantitative or tariff-rate quota, collectors are authorized to accept an entry for consumption or for warehousing for the entire quantity of merchandise covered by an entry for immediate transportation after the arrival of any part of such quantity at the port of destination or such other place as may be authorized in accordance with § 18.11 (c) of this chapter.[3]

---

holidays, after the entry of the importing vessel or report of the vehicle, or after the arrival at the port of destination in the case of merchandise transported in bond, unless the collector authorizes in writing a longer time." (Tariff Act of 1930, sec. 484 (a), as amended; 19 U. S. C. 1484 (a))

[3] "(f) • • • in the case of articles not subject to a quantitative or tariff-rate quota, entry for the entire quantity covered by an entry for immediate transportation made under section 552 of this act may be accepted at the port of entry designated by the con-

(d) Entry is made under an appraisement entry (customs Form 7500), a formal consumption entry (customs Form 7501), a combined entry for rewarehouse and withdrawal for consumption (customs Form 7519), or an informal entry (customs Form 5119 or 5119–A) when the specified form is properly executed and deposited, together with any related documents required by any provision of these regulations to be filed with such form at the time of entry, at the port or station with the customs officer designated to receive such entry papers and any duties or taxes required to be paid at the time of making such entry have been deposited with the customs officer designated to receive such monies. The rate or rates of duty applicable to merchandise entered under any such entry shall be the rate or rates in effect when the making of the entry as stated above is completed, except as provided for in section 315 (a) (2), Tariff Act of 1930, as amended.[2a]

(e) Entry is made under an informal mail entry (customs Form 3419, or 5119) when the preparation of the entry by a customs employee is completed. (See § 9.3 (d) of this chapter.)

(f) Entry is made under a warehouse entry (customs Form 7502) when the specified form is properly executed and deposited, together with any related documents required by any provision of these regulations to be filed with such form at the time of entry, with the customs officer designated to receive such entry papers.

(g) A withdrawal from warehouse for consumption, the process preparatory for the issuance of a permit for the release of the merchandise to or upon the order of the warehouse proprietor, is made when customs Form 7505 is properly executed and deposited, together with any related documents required by any provision of these regulations to be filed with such form at the time of withdrawal, with the customs officer designated to receive the withdrawal and any duties or taxes required to be paid at the time of withdrawal have been deposited with the customs officer designated to receive such monies. The rate or rates of duty applicable to merchandise withdrawn from warehouse for consumption shall be the rate or rates in effect when the making of the withdrawal as stated above is completed.[2a] Unless all acts required by this paragraph and section 315(a) of the Tariff Act of 1930, as amended, including the deposit of required duties and taxes, are completed before the expiration of 60 days from the date of deposit of customs Form 7505, such form and any related papers shall be deemed abandoned.

(h) If merchandise which has been entered for consumption as stated in paragraph (d) of this section is thereafter, and before release from continuous customs custody, removed from the port or place of intended release under any of the circumstances specified in section 315 (b), Tariff Act of 1930, as amended,[2b] and is returned to such port or place within the 90-day period specified in such section 315 (b), such merchandise shall be subject to duty at the rate or rates in effect when the merchandise was entered as above stated, provided the merchandise is identified with the original entry by the usual customs examination and any documentary evidence as to its movement between its removal and return which the collector may reasonably require. If the original entry has not been liquidated and the consignee at the time of original importation and at the time of return is the same person, the merchandise may be cleared through customs under the original entry; otherwise a new entry shall be required.

(i) In the case of articles imported by vessel, the date on which the vessel arrives within the limits of a port in the United States with intent then and there to unlade shall be deemed the date of importation of those articles as to which there is such intent to unlade. In the case of articles imported otherwise than by vessel, the date on which the articles arrive within the limits of the United States shall be deemed the date of importation.

(Secs. 315, 484 (f), 46 Stat. 695, as amended, 723, as amended; 19 U. S. C. 1315, 1484 (f))

§ 8.5 Examination of merchandise before entry for consumption or warehouse.

(a) Unless an examination is required for the exclusive benefit of the United States or is permitted in accordance with paragraph (b) of this section, no imported merchandise shall be opened, examined, or inspected until it has been entered under some form of an entry for consumption or warehouse.

(b) As a bona fide incident to exportation or further transportation, merchandise entered or withdrawn for transportation in bond to another port or place in the United States or for exportation may, upon written application by the consignee or his agent be permitted by the collector to be examined,[4] sampled, weighed, or subjected to an operation not constituting a manufacture required by reason of an emergency, under conditions set forth in subparagraphs (2) to (5) of this paragraph. Under the same conditions, transshipment of such merchandise involving the breaking of customs Tyden seals by or under the immediate supervision of a customs officer at a place other than the port of destination or departure from the United States may be permitted. Merchandise entered or withdrawn as prescribed above may be subjected to any other operation not constituting a manufacture if neither the protection of the revenue nor the proper conduct of customs business requires it to be done in a customs bonded warehouse and the following conditions are met:

(1) A special application by the consignee or his agent is submitted to the Bureau of Customs with the recommendation of the collector concerned and is approved by the Bureau;

(2) The operation permitted is executed under customs supervision;

(3) The application is supported by a legitimate business reason for the request;

(4) If the merchandise is in possession or joint possession of a carrier, the concurrence of the carrier is obtained; and

(5) The Government is reimbursed for the compensation, computed in accordance with § 19.5 (b) of this chapter, and other expenses of the customs officer or employee supervising the action permitted.

An application to examine merchandise, whether or not covered by an entry or withdrawal for transportation in bond or for exportation, may be granted under the conditions set forth in subparagraphs (2), (4), and (5) of this paragraph when (i) an importer has been unable to obtain the necessary documents or information to make the desired entry and such examination is required to obtain information for the preparation of a pro forma invoice to be used in making the entry, or (ii) examination of perishable merchandise is desired solely for the

---

signee, or his agent, in such entry after the arrival of any part of such quantity at such designated port or at such other place of deposit as may be authorized in accordance with regulations prescribed by the Secretary of the Treasury." (Tariff Act of 1930, sec. 484 (f), as amended, 19 U. S. C. 1484 (f))

[2a] "(a) Except as otherwise specially provided for, the rate or rates of duty imposed by or pursuant to this Act or any other law on any article entered for consumption or withdrawn from warehouse for consumption shall be the rate or rates in effect when the documents comprising the entry for consumption or withdrawal from warehouse for consumption and any estimated or liquidated duties then required to be paid have been deposited with the appropriate customs officer in the form and manner prescribed by regulations of the Secretary of the Treasury, except that—

* * * * *

"(2) Any article which is not subject to a quantitative or tariff-rate quota and which is covered by an entry for immediate transportation made at the port of original importation under section 552 of this Act, if entered for consumption at the port designated by the consignee, or his agent, in such transportation entry without having been taken into the custody of the collector under section 490 of this Act, shall be subject to the rate or rates in effect when the transportation entry was accepted at the port of original importation." (Tariff Act of 1930, sec. 315 (a), as amended; 19 U. S. C. 1315 (a).)

[2b] "(b) Any article which has been entered for consumption but which, before release from customs custody, is removed from the port or other place of intended release because of inaccessibility, overcarriage, strike, act of God, or unforeseen contingency, shall be subject to duty at the rate or rates in effect when the entry for consumption and any required duties were deposited in accordance with subsection (a) of this section, but only if the article is returned to such port or place within ninety days after the date of removal and the identity of the article as that covered by the entry is established in accordance with regulations prescribed by the Secretary of the Treasury." (Tariff Act of 1930, sec. 315 (b), as amended; 19 U. S. C. 1315 (b))

[4] The privilege of inspection of perishable merchandise is not limited to one inspection and there is no objection to incidental display to prospective buyers during the inspection. (See B. C. L. 2066.)

purpose of determining its condition. An application to sample coal-tar products (see § 14.5(a) of this chapter) before their entry under some form of an entry for consumption or warehouse may also be granted under the conditions of subparagraphs (2), (4), and (5) of this paragraph. The provisions of this paragraph are applicable to quota merchandise of a kind which may neither be entered for warehouse nor for consumption because of the fulfillment of the quota.

(c) Properly authorized employees of the Customs Service, the Food and Drug Administration, the Agricultural Research Service, the Public Health Service, or other agency of the United States may take samples of unladen merchandise for which entry has not been filed. In no case shall any official action be taken on any such samples until entry has been filed.

(d) Prior to the filing of a proper entry, no information concerning the designation of packages for examination shall be given to or be accessible to any importer, broker, or other person who is not a customs officer necessarily concerned with such designation, except as provided for in § 8.59 (c), relating to merchandise released under immediate delivery permits.

§ 8.6 Evidence of right to make entry; legal representative of consignee; nonresident consignee; foreign corportation; underwriters and salvors.

(a) The holder of a bill of lading, properly endorsed when endorsement is required under the law, shall have the right to make entry.[5] However, the consignee named in a nonnegotiable bill of lading may not by endorsing it vest in someone else a right to make entry. A shipping receipt or other document presented in lieu of a bill of lading shall not be accepted as authority for making entry unless bearing a certificate of the carrier in accordance with subsection (h) or (i) of section 484, Tariff Act of 1930,[6] or unless entry is made by the actual consignee in person or in his name by a duly authorized agent.

(b) When merchandise is not imported by a common carrier, possession of the merchandise at the time of arrival in the United States shall be deemed sufficient evidence of the right to make entry.

(c) Entry shall not be made on an extract from a bill of lading, unless such extract is certified to be genuine by the carrier bringing the merchandise to the port at which entry is made. Collectors of customs shall not certify extracts from bills of lading.

(d) Separate entries may be made for consolidated shipments upon compliance with the following requirements:

(1) The consignee of a consolidated shipment covering merchandise for various ultimate consignees who desire to make separate entries shall deposit with the collector the original bill of lading, the certified duplicate bill of lading, the carrier's certificate, or the shipping receipt if no bill of lading has been issued, covering the entire shipment, and such document shall be permanently retained by the collector.

(2) If a bill of lading is filed, it shall contain the following endorsement signed by the consignee named therein:

As the within-described merchandise belongs to various ultimate consignees who desire to make separate entries therefor, the undersigned consignee thereof hereby expressly waives the right granted by section 484 (j), Tariff Act of 1930, to have this bill of lading returned.

(3) Except when an authority to make entry for a portion of a consolidated shipment is executed on the entry form in the space provided therefor, at the time of depositing such bill of lading, or other document, the consignee named therein shall produce a certificate prepared and signed by him for each portion of the shipment for which separate entry is desired. The certificate shall be in the following form:

Collection district No._____
Port of_____
_____, 19__

AUTHORITY TO MAKE ENTRY

Of merchandise imported at_____ on _____, 19__, per_____, from_____ shipped by_____, consigned to_____, endorsed to_____, covered by* _____ dated_____, 19__, at_____, on file with the collector of customs at_____.

*Insert "bill of lading," "certified duplicate bill of lading," "carrier's certificate," or "shipping receipt."

Marks	Numbers	Description

We
I, _____, the consignee in the above-mentioned document covering merchandise for various ultimate consignees, hereby authorize _____ or order to make customs entry for the above-described merchandise.

_____
Consignee

(4) When a certificate on a separate document as described in subparagraph (3) is presented, it shall be compared with the supporting document and after being initialed by the entry clerk shall be returned to the consignee for transmittal to the person who will make entry. When an entry is received having executed thereon in the space provided therefor an authority to make entry for a portion of a consolidated shipment, such authority shall be compared with the supporting document.

(5) The authority to make entry carried by such certificate may be transferred by endorsement.

(e) When a carrier's certificate is used in making entry pursuant to the provisions of section 484 (h), Tariff Act of 1930, it shall be executed on customs Form 7529, unless it is included in the official entry form or unless in appropriate cases an endorsement, in substantially the form set forth below, to serve as a combined carrier's certificate and release order with one signature, is rubber-stamped or typewritten on a copy of the bill of lading, on a copy of the airway bill, or on another document containing the required descriptive information (see § 8.23 (a)).

Date_____

The undersigned carrier, to whom or upon whose order the articles described herein or in the attached document must be released, hereby certifies that the consignee named in this document is the owner or consignee

---

[5] For the purposes of this title—

"(1) All merchandise imported into the United States shall be held to be the property of the person to whom the same is consigned; and the holder of a bill of lading duly indorsed by the consignee therein named, or, if consigned to order, by the consignor, shall be deemed the consignee thereof. * * *" (Tariff Act of 1930, sec. 482; 19 U. S. C. 1483)

"The consignee shall produce the bill of lading at the time of making entry, except that—

"(1) If the collector is satisfied that no bill of lading has been issued, the shipping receipt or other evidence satisfactory to the collector may be accepted in lieu thereof;

"(2) The collector is authorized to permit entry and to release merchandise from customs custody without the production of the bill of lading if the person making such entry gives a bond satisfactory to the collector, in a sum equal to not less than one and one-half times the invoice value of the merchandise, to produce such bill of lading, to relieve the collector of all liability, to indemnify the collector against loss, to defend every action brought upon a claim for loss or damage, by reason of such release from customs custody or a failure to produce such bill of lading and to entitle any person injured by reason of such release from customs custody to sue on such bond in his own name, without making the collector a party thereto. Any person so injured by such release may sue on such bond to recover any damages so sustained by him; and

"(3) The provisions of this subdivision shall not apply in the case of an entry under subdivision (h) or (i) of this section (relating to entry on carrier's certificate and on duplicate bill of lading, respectively)." (Tariff Act of 1930, sec. 484 (c); 19 U. S. C. 1484 (c))

[6] "(h) Entry on Carrier's Certificate.—Any person certified by the carrier bringing the merchandise to the port at which entry is to be made to be the owner or consignee of the merchandise, or an agent of such owner or consignee, may make entry thereof, either in person or by an authorized agent, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of a consignee within the meaning of paragraph (1) of section 483.

"(i) Entry on Duplicate Bill of Lading.—Any person may, upon the production of a duplicate bill of lading signed or certified to be genuine by the carrier bringing the merchandise to the port at which entry is to be made, make entry for the merchandise in respect of which such bill of lading is issued, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of a consignee within the meaning of paragraph (1) of section 483, except that such person shall make such entry in his own name." (Tariff Act of 1930, sec. 484 (h) and (i); 19 U. S. C. 1484 (h) (i))

"For the purposes of this title—

* * * * *

"(2) A person making entry of merchandise under the provisions of subdivision (h) or (i) of section 484 (relating to entry on carrier's certificate and on duplicate bill of lading, respectively) shall be deemed the sole consignee thereof." (Tariff Act of 1930, sec. 483; 19 U. S. C. 1483)

of such articles within the purview of section 484 (h), Tariff Act of 1930. In accordance with the provisions of section 484 (j), Tariff Act of 1930, authority is hereby given to release the articles covered by the aforementioned statement to such consignee.

(Name of carrier)

(Agent)

(f) A collector may accept a blanket carrier's certificate, customs Form 7529, appropriately modified, from a carrier for any or all shipments which will arrive in its conveyances at the port during a period specified in the certificate.

(g) When entry is made on a certified duplicate bill of lading, the certificate thereon shall be substantially in the following form:

DUPLICATE BILL OF LADING CERTIFICATE

---------- 19--

The undersigned carrier, bringing the within-in-described merchandise to this port, hereby certifies that this signed copy of the bill of lading is genuine and may be used for the purpose of making customs entry as provided for in section 484 (i) of the tariff act.

(Name of carrier)

(Agent)

(h) When a bond is given for the production of a bill of lading, it shall be on customs Form 7581 and shall run in favor of the collector personally and as collector of customs. When the collector is in doubt as to the propriety of accepting entry on a bond for the production of a bill of lading, he shall request authority to do so from the Bureau.

(i) Inasmuch as the provisions of section 484 (c) of the tariff act do not apply in the case of entries made under subsection (h) or (i), no bond for the production of a carrier's certificate or certified duplicate bill of lading shall be taken; but when a bond is given for the production of a bill of lading, such bond may be considered as satisfied upon the production of a proper carrier's certificate or certified duplicate bill of lading, but shall not be canceled.

(j) The executor or administrator of the estate of a deceased consignee, the receiver or other legal representative of an insolvent consignee, or the representative appointed in any action or proceeding at law to act for a consignee shall not be permitted to make entry unless he shall produce a duly endorsed bill of lading, a carrier's certificate, or a duplicate bill of lading, executed in accordance with subsection (h) or (i) of section 484 of the tariff act, showing him to be the consignee for customs purposes.

(k) A nonresident consignee has the right to make entry but the bond, customs Form 7551, 7553, or other appropriate form, when required, shall have a resident corporate surety thereon.

(l) A foreign corporation shall not enter merchandise for consumption unless it has, in the state where the port of entry is located, a resident agent authorized to accept service of process against such corporation and files a bond with a resident corporate surety to secure the payment of any increased and additional duties which may be found due.

(m) Underwriters of abandoned merchandise or salvors of merchandise saved from a wreck who are unable to produce a bill of lading, certified duplicate bill of lading, or carrier's certificate shall produce evidence satisfactory to the collector of their right to act.[7]

(Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484)

§ 8.7 Disposition of bill of lading or carrier's certificate.

(a) When the return of the bill of lading to the person making the entry, as required by the provisions of section 484(j), Tariff Act of 1930,[8] is requested, the collector shall take a receipt therefor, which shall set forth such of the data contained in the bill of lading as will completely identify it and enable the comptroller to verify the production of proper evidence of the right to make entry. The receipt shall also show any freight charges and weights that appear on the bill of lading. If the original bill of lading is necessary to obtain a carrier's certificate or duplicate bill of lading from the carrier, such exchange shall be made before the entry is filed.

(b) When a carrier's certificate or duplicate bill of lading is used in making entry, it shall be retained by the collector as evidence that the person making entry is authorized to do so.

(Sec. 484, 46 Stat. 722, as amended; 19 U. S. C. 1484)

§ 8.8 Requirements on entry.

(a) Entries shall be legibly prepared on a typewriter or with ink, indelible pencil, or other permanent medium. All entry papers and documents required shall be on the appropriate forms prescribed by the regulations and shall clearly set forth, with respect to the merchandise covered thereby, all information for which spaces are provided on such forms.[9] With respect to each invoice covered by the entry, the following shall be shown separately: the quantity of each class of merchandise; the claimed rate or rates of duty for each class of merchandise; and, except in the case of entry by appraisement, the aggregate of the entered value for each classification. The description of the merchandise shall be in terms of the Tariff Schedules of the United States Annotated, or in more specific terms which indicate clearly the tariff classification claimed by the importer.[10] Additionally, on each entry of tobacco materials, tobacco products, or cigarette papers and tubes, as those articles are defined in Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275) and when subject to such regulations the separate statement for tax purposes required by 26 CFR 275.81 as to any such article shall be made on the entry form.

(b) For each invoice of dutiable, taxable, or conditionally free merchandise covered by the entry and in a conspicuous place among the entry data related to such invoice, there shall be shown the gross amount of such invoice, the deduction of the aggregate amount of any nondutiable charges included in such amount, the further deduction of the aggregate of any deductions from invoice values to make entered values, and the addition of the aggregate of any dutiable charges not included in the gross amount of the invoice and of any other additions to invoice values to make entered values, so that the final amount in the summary computation represents the aggregate of the entered values of all the merchandise on each invoice covered by the entry. For each invoice of merchandise that is unconditionally free of duty and tax, it will be sufficient if the entry data related to such invoice include the entered value, without details of the computation such as are specified for invoices of dutiable, taxable, or conditionally free merchandise.

(c) When required by the collector as a memorandum entry record for purposes of local administration, a copy of customs Form 5101 shall be prepared and presented by the importer with each formal or appraisement entry, except those covering shipments declared to be for more than one actual owner.

(d) Each entry when presented shall be accompanied by customs Form 6417, the face of which shall be prepared by the importer as a carbon copy of the entry and shall show the information required under paragraphs (a) and (b) of this section, except that in the case of an importation entitled to immediate delivery under § 10.104(a) of this chapter, no customs Form 6417 shall be required or accepted by the collector of customs.

(e) If entry is made by or for the account of one who has purchased the goods while they were in transit from the

---

[7] "For the purposes of this title—

"* * * The underwriters of abandoned merchandise and the salvors of merchandise saved from a wreck at sea or on or along a coast of the United States may be regarded as the consignees * * *" (Tariff Act of 1930, sec. 483; 19 U. S. C. 1483)

[8] "* * * The collector shall return to the person making entry the bill of lading (if any is produced) with a notation thereon to the effect that entry for such merchandise has been made. * * *" (Tariff Act of 1930, sec. 484 (j); 19 U. S. C. 1484 (j))

[9] "Such entry shall be signed by the consignee, or his agent, and shall set forth such facts in regard to the importation as the Secretary of the Treasury may require for the purpose of assessing duties and to secure a proper examination, inspection, appraisement, and liquidation, and shall be accompanied by such invoices, bills of lading, certificates, and documents as are required by law and regulations promulgated thereunder." (Tariff Act of 1930, sec. 484 (d); 19 U. S. C. 1484 (d))

[10] "The Secretary of the Treasury, the Secretary of Commerce, and the Chairman of the United States Tariff Commission are authorized and directed to establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States, and as a part of the entry there shall be attached thereto or included therein an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and the value of the total quantity of each kind of article." (Tariff Act of 1930, sec. 484 (e); 19 U. S. C. 1484 (e))

point of exportation to the point of entry, a statement showing the price paid for each item by such purchaser must be presented at the time of entry.

(f) Consolidated shipments to one consignee for various ultimate consignees and the several enclosures of a packed package may be covered by separate entries upon compliance with the provisions of §§ 8.6 (d) and 8.52, respectively.

(g) If the collector is satisfied that there will be no prejudice to the revenue or to the efficient conduct of customs business, separate entries may be accepted for portions of all the merchandise arriving on one vessel or vehicle and consigned to one consignee,[11] as prescribed in § 8.6 (d), and also when:

(1) The consignee desires to enter such portions under different forms of entry, for transportation to different ports of entry, or for warehousing in separate warehouses;

(2) Appraisements are being withheld upon merchandise of the class or kind constituting a portion for which a separate entry is tendered;

(3) The several portions for which separate entries are tendered are covered by separate bills of lading;

(4) The consignment consists of different classes of merchandise to be examined by different appraising officers;

(5) The consignment consists of merchandise subject to entry under bonds given to assure accounting for final disposition;

(6) The merchandise for which a separate entry is tendered comprises one or more importations which arrived under a consolidated immediate transportation without appraisement entry (see § 18.11 (h) of this chapter); or

(7) A special application is submitted to the Bureau of Customs with the recommendation of the collector concerned and is approved by the Bureau.

(h) When separate entries are made under the preceding paragraphs, the entries shall be presented simultaneously when practicable. A separate consignee's declaration shall be filed for each entry and, except when a portion of the merchandise is entered under schedule 8, part 5C, Tariff Schedules of the United States, each entry shall cover whole packages or not less than 1 ton of merchandise in bulk.

(i) When separate entries are made under paragraph (e) of this section for merchandise covered by a single bill of lading, compliance with § 8.6 (d) shall be required, except that the endorsement on the bill of lading shall read as follows:

As portions of the within-described merchandise will be covered by separate entries, the undersigned consignee expressly waives the right granted by section 484 (j), Tariff Act of 1930, to have this bill of lading returned.

(Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484)

§ 8.9 Entry without required invoice.

If an invoice required under § 8.15 is not available in proper form at the time of entry, the entry shall be accepted only if—

(a) The collector is satisfied that the failure to produce the required invoice is due to a cause beyond the control of the person for whom the entry is tendered;

(b) Such person or his agent makes a written declaration that he is unable to produce such invoice and (1) files therewith a seller's or shipper's invoice, or (2) if no seller's or shipper's invoice is available, files therewith a statement of the value, or the price paid, in the form of an invoice; and

(c) Such person or his agent gives a bond on customs Form 7551 or 7553, or other appropriate form, for the production of the required invoice within 6 months from the date of entry of the merchandise.[12]

(Sec. 484(b), 46 Stat. 722, as amended; 19 U.S.C. 1484(b))

[11] "* * * All other merchandise arriving on one vessel or vehicle and consigned to one consignee shall be included in one entry, unless the Secretary of the Treasury shall authorize the inclusion of portions of such merchandise in separate entries under such rules and regulations as he may prescribe; * * *" (Tariff Act of 1930, sec. 484 (f), as amended; 19 U.S.C. 1484 (f))

[12] "The Secretary of the Treasury shall provide by regulation for the production of a certified invoice with respect to such merchandise as he deems advisable and for the terms and conditions under which such merchandise may be permitted entry under the provisions of this section without the production of a certified invoice." (Tariff Act of 1930, sec. 484 (b), as amended; 19 U. S. C. 1484 (b))

§ 8.11 Invoice to be for single shipment; extracts from invoices.

(a) Except as provided for in § 8.12, a customs invoice shall not represent more than one distinct shipment of merchandise by one consignor to one consignee by one vessel or conveyance. If by reason of accident or short shipment a portion of the quantity covered by one invoice fails to arrive, or if for any other reason only a portion of the quantity covered by one invoice is entered under one entry, an extract from the special customs or commercial invoice used in connection with the first entry, covering the quantity to be entered under another entry, may be used in connection with the subsequent entry of any portion of the merchandise not cleared under the first entry. However, an extract from the invoice filed with the first entry for consumption from a foreign-trade zone of a portion of the merchandise shown on the invoice will not be required for any subsequent entry for consumption from that zone at the same port of a portion of the merchandise covered by such invoice, if a pro forma invoice is filed and identifies the entry first made and the invoice then filed.

(b) When portions of a single shipment requiring a special customs or commercial invoice are entered at different ports, the importer may request the collector for the port where the invoice is on file or, if a certified extract or extracts of such invoice have been issued, the collector for the port where an extract was last issued, to prepare and certify an extract of the invoice or an extract of the extract of the invoice, as the case may be. The certified extract shall be delivered to the importer by the collector after the official seal is affixed thereto. The certified extract shall show all the invoice data for all merchandise covered by the invoice or extract but not included in the entry made at the port of certification. An extract from a special customs or commercial invoice presented within the bonded period may be accepted to cancel the bond given for the production of a certified or commercial invoice. In cases where a portion of a shipment is entered at the first port on a pro forma invoice, entries at each subsequent port shall be made by means of a new pro forma invoice for only the merchandise entered. An extract from an invoice shall be identified thereon in substantially the following form:

Extract from {special customs / commercial} Invoice No.---
---------- dated ----------, filed at
---------- with ----------
(Port)
entry No. ---------- dated ----------,
covering {purchased / consigned} goods for use at the port
of ----------.
Certified correct ----------, 19---.

Consignee

Collector of Customs

The extract shall be prepared in duplicate and the duplicate shall be attached to the original invoice or to the last prior extract.

(c) Bona fide installment shipments may be covered by one invoice in accordance with § 8.12 and any bona fide installment valued at not more than $250 may be entered on an informal entry in accordance with § 8.51. The consolidation of separate shipments in one invoice or the splitting up of an importation into small lots, each valued at not more than $500, to avoid special customs invoice requirements shall not be permitted.

§ 8.12 Invoices for installment shipments arriving within a period of 7 days; entry.

(a) Installments of a shipment covered by a single order or contract and shipped from one consignor to one consignee may be included in one invoice if the installments arrive at the port of entry by any means of transportation within a period of not to exceed 7 consecutive days.

(b) If the required invoice is not filed with the first entry of the installment series, a pro forma invoice shall be filed with each entry made before the required invoice is produced and a bond shall be given, or charge against a term bond made, for the production of the required invoice. Liquidated damages will accrue in the case of each entry if more than 6 months expires without the production of an invoice for such entry.

(c) The invoice shall be prepared in the manner provided for in section 481 (a), Tariff Act of 1930, and § 8.13, and, when practicable, shall show the quantities, values, and other invoice data with respect to each installment and the date

of shipment of each installment and shall give the car number or other identification of the importing conveyance in which it was shipped.

(d) In regard to the application of the informal entry procedure to installment shipments, see § 8.51.

§ 8.13 Contents of invoices; incomplete invoices; general requirements supplemented.

(a) Every special customs invoice of merchandise to be imported into the United States shall set forth the information required by section 481(a), Tariff Act of 1930 [13] and shall state in adequate detail what merchandise is contained in each individual package. Such information shall be included in or attached to the special customs invoice.

(b) Every special customs invoice of imported merchandise shipped to a person in the United States by a person other than the manufacturer and otherwise than pursuant to a purchase or agreement to purchase shall set forth the information required by section 481(b) of the tariff act.[14]

(c) In the case of merchandise valued at over $500, the collector shall reject special customs invoices or commercial invoices for commodities not requiring special customs invoices which are not executed in accordance with the regulations in this part, but entry may be made on a pro forma invoice containing sufficient data for classification and appraisement purposes and a bond taken for the production of a correct special customs or commercial invoice, as the case may be.

(d) When any of the component materials of an imported article affects its classification or appraisement, the invoice shall set forth an analysis of the article or the formula under which it was manufactured or produced, stating the component materials contained in the article and the percentage of each, if such percentage is known.

(e) Whenever it shall be determined by the appraising officer that information as to the cost of production or constructed value is necessary in the appraisement of any class or kind of merchandise, the importer shall be notified by the appraiser and thereafter invoices covering shipments of such merchandise shall contain a verified statement by the manufacturer or producer as to the cost of production or constructed value,[15] as defined in section 402a(f) or 402(d), Tariff Act of 1930, as amended.

(f) All invoices shall set forth in detail, with respect to each class or kind of merchandise covered thereby, every discount from list or other base price which has been or may be allowed in fixing each purchase price or value set forth therein.

(g) If the invoice or entry does not disclose the weight, gauge, or measure of merchandise required to be weighed, gauged, or measured in order to ascertain the duties thereon, the consignee shall pay the expense of weighing, gauging, or measuring prior to the release of the merchandise from customs custody.[15a]

(h) Under section 481(a)(10) of the tariff act, additional information shall be furnished on or with special customs or commercial invoices for the following classes of merchandise in accordance with the requirements indicated for each class:

Aluminum and alloys of aluminum classifiable under schedule 6, part 2D, Tariff Schedules of the United States (T.D. 53092, *55977*) * * * (1) Statement of the percentages by weight of any metallic element used as an alloy in the articles.

Beads (T.D. 50088, *55977*)—(1) The length of the string, if strung; (2) the size of the beads expressed in millimeters; (3) the material of which the beads are composed, i.e., ivory, glass, imitation pearl, etc.

Boots, shoes, or other footwear (including athletic or sporting boots and shoes), wholly or in part of leather (T.D. 51029)—(1) Statement whether or not the articles were sewed or stitched by the process or method known as McKay.

Braids, nonelastic, and other nonelastic braided materials suitable for making or ornamenting headwear, classifiable under item 703.80 or 703.85 (T.D. 49501, 52020, 52114, *55977*)—(1) A statement as to whether or not the article has been bleached or colored.

Coal-tar colors, dyes, colors, stains, color acids, color bases, color lakes, leuco-compounds, indoxyl and indoxyl compounds (T.D. 53593, 53688)—(1) The specifications set forth in "Schedule A" of § 14.5(n) of these regulations are required to be furnished with each invoice of these products on separate sheets of paper under the conditions which follow and with the exceptions noted:

(a) The information is not required for second and successive shipments to the same port of identical merchandise of the same name and strength if a reference to the date of the first shipment is given.

(b) The information specified in items 10 through 15 is required only when the Schultz number, item 7, the colour index number, item 8, and U.S. standard number, item 9, are not given.

(c) The following is substituted for items 4 and 5:

4. Name(s) under which sold in country of production.

5. Name(s) of comparable American made product with name of U.S. manufacturer (if none or unknown, so state).

Copper, articles classifiable under the provisions of schedule 6, part 2C, Tariff Schedules of the United States (T.D. 45878, 50158, *55977*)—(1) A statement of the weight of articles of copper and a statement of percentage of copper content by weight of articles dutiable on their copper content.

Copper bearing ores and concentrates classifiable under items 602.25, 602.30, 602.31, 603.50, 603.55 or 603.65 (T.D. 45878, 50158, *55977*)—(1) Statement as to the weight of the article and the weight of the copper content.

Cotton fabrics classifiable under the following items of the Tariff Schedules of the United States; schedule 3, part 1A—Cotton: items 301.60 through 301.98, and items 302...., and 303.20; schedule 3, part 3A—Woven fabrics of cotton; all items except items 332.10 and 332.40; schedule 3, part 6A—Handkerchiefs; items 370.24 through 370.68; schedule 3, part 6B—Mufflers, etc.; item 372.15; schedule 3, part 6C—Hosiery; item 374.40; schedule 3, part 6E—Underwear; item 378.15 (T.D. 49808, *55977*)—(1) Marks on shipping packages; (2) numbers on shipping packages; (3) date of acceptance of the order by the seller; (4) customer's call number, if any; (5) manufacturer's marks, numbers, on symbols under which the merchandise is sold in the home market; (6) exact width of the merchandise; (7) detailed description of the merchandise; trade name, if

---

[13] "All invoices of merchandise to be imported into the United States shall set forth—

"(1) The port of entry to which the merchandise is destined;

"(2) The time when, the place where, and the person by whom and the person to whom the merchandise is sold or agreed to be sold, or if to be imported otherwise than in pursuance of a purchase, the place from which shipped, the time when and the person to whom and the person by whom it is shipped;

"(3) A detailed description of the merchandise, including the name by which each item is known, the grade or quality, and the marks, numbers, or symbols under which sold by the seller or manufacturer to the trade in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;

"(4) The quantities in the weights and measures of the country or place from which the merchandise is shipped, or in the weights and measures of the United States;

"(5) The purchase price of each item in the currency of the purchase, if the merchandise is shipped in pursuance of a purchase or an agreement to purchase;

"(6) If the merchandise is shipped otherwise than in pursuance of a purchase or an agreement to purchase, the value for each item, in the currency in which the transactions are usually made, or, in the absence of such value, the price in such currency that the manufacturer, seller, shipper, or owner would have received, or was willing to receive, for such merchandise if sold in the ordinary course of trade and in the usual wholesale quantities in the country of exportation;

"(7) The kind of currency, whether gold, silver, or paper;

"(8) All charges upon the merchandise, itemized by name and amount when known to the seller or shipper; or all charges by name (including commissions, insurance, freight, cases, containers, coverings, and cost of packing) included in the invoice prices when the amounts for such charges are unknown to the seller or shipper;

"(9) All rebates, drawbacks, and bounties, separately itemized, allowed upon the exportation of the merchandise; and

"(10) Any other facts deemed necessary to a proper appraisement, examination, and classification of the merchandise that the Secretary of the Treasury may require." (Tariff Act of 1930, sec. 481 (a); 19 U. S. C. 1481 (a))

[14] "If the merchandise is shipped to a person in the United States by a person other than the manufacturer, otherwise than by purchase, such person shall state on the invoice the time when, the place where, the person from whom such merchandise was purchased, and the price paid therefor in the currency of the purchase, stating whether gold, silver, or paper." (Tariff Act of 1930, sec. 481(b); 19 U.S.C. 1481(b).)

[15] "Under such regulations as the Secretary of the Treasury may prescribe, the collector or the appraiser may require a verified statement from the manufacturer or producer showing the cost of production of the imported merchandise, when necessary to the appraisement of such merchandise." (Tariff Act of 1930, sec. 484(g); 19 U.S.C. 1484(g))

[15a] "In all cases in which the invoice or entry does not state the weight, quantity, or measure of the merchandise, the expense of ascertaining the same shall be collected from the consignee before its release from customs custody." (Tariff Act of 1930, sec. 494; 19 U.S.C. 1494)

any; whether bleached, unbleached, printed, dyed, or colored; if composed of cotton and other materials, state chief value first and give percentage (value) of each component; (8) number of single threads per square inch (All ply yarns must be counted in accordance with the number of single threads contained in the yarn; to illustrate, a cloth containing 100 two-ply yarns in one square inch must be reported as 200 single threads); (9) exact weight per square yard, in ounces; (10) average yarn number (use this formula):

$$\frac{\text{Number of single threads per square inch} \times 24}{\text{Number of ounces per square yard} \times 35} = \text{Average yarn number;}$$

(11) yarn size or sizes in the warp; (12) length of staple of the cotton in the warp; (13) yarn size or sizes in the filling; (14) length of the staple of the cotton in the filling; (15) number of colors or kinds (different yarn sizes or materials) in the filling; (16) net weight per square yard of the cotton contained therein having a staple 1⅛ inches or more in length; (17) net weight per square yard of the cotton contained therein having a staple less than 1⅛ inches in length; (18) how the cloth was woven (if on plain loom without attachment, indicate (plain); if with eight or more harnesses (O/8H), if with Jacquard (Jacq), if with Swivel (Swiv), if with Lappet (Lpt)). Customs Form 5519 is acceptable for furnishing the additional information required above.

Cotton raw—See § 13.17 of these regulations for additional information required on invoices.

Cotton waste (T.D. 50044)—(1) The name by which the cotton waste is known, such as "cotton card strips"; "cotton comber waste"; "cotton lap waste"; "cotton sliver waste"; "cotton roving waste"; "cotton fly waste"; etc.; (2) whether the length of the staple of the cotton from which any cotton card strips covered by the invoice were made is less than 1⅜₁₆ inches or is 1⅜₁₆ inches or more; (3) whether the length of the staple of the cotton from which any cotton comber waste covered by the invoice was made is less than 1⅜₁₆ inches or is 1⅜₁₆ inches or more.

Earthenware or crockeryware composed of a nonvitrified absorbent body (including white granite and semiporcelain earthenware and cream-colored ware, stoneware, and terra cotta, but not including common brown, gray, red, or yellow earthenware), embossed or plain; common salt-glazed stoneware; stoneware or earthenware crucibles; Rockingham earthenware; china, porcelain, or other vitrified wares, composed of a vitrified nonabsorbent body which, when broken, shows a vitrified, vitreous, semivitrified, or semivitreous fracture; and bisque or parian wares (T.D. 53236)—(1) If in sets, the kinds of articles composing each kind of set, and the quantity of each kind of article in each set in the shipment; (2) the exact maximum diameter, expressed in inches, of each size of all plates in the shipment; (3) the unit value for each style and size of plate, cup, saucer, or other separate piece in the shipment.

Fish or fish livers imported in airtight containers classifiable under schedule 1, part 3C, Tariff Schedules of the United States (T.D. 50724, 49640, *55977*)—(1) Statement whether the articles contain an oil, fat, or grease which has had a separate existence as an oil, fat, or grease; (2) The name and quantity of any such oil, fat, or grease.

Flax, hemp, and ramie fabrics and articles classifiable under the following items of the Tariff Schedules of the United States: 335.80, 335.90, 355.55, 356.25, 356.70, 356.80, 363.35, 366.30, 366.33, 366.36, 366.48, 366.81, 370.72, 370.76, or 370.80, and tablecloths, table scarves, and table doilies classifiable under items 366.51, or 366.84 (T.D. 50088, *55977*)—(1) Customer's call number, if any; (2) manufacturer's name and the manufacturer's marks, numbers, or symbols under which the merchandise is sold in the home market; (3) exact width of the merchandise if in the piece, otherwise the size; (4) if composed of cotton and other materials, state chief value first and give percentage (value) of each component. State also the finish of the fabric or article, e.g., "loom state", "bleached", "commercial or vat dyed"; (5) actual number of threads contained in the fabric per square inch, in condition exported. Each thread is counted as one whether or not such thread contains two or more single strands of yarn twisted to make a complete thread. To illustrate, a cloth containing 100 two-ply yarns per square inch must be reported as 100 threads; (6) exact weight per square yard, in ounces; (7) whether "hand hemmed," "machine hemmed," "unhemmed," or "in piece." Customs Form 5521 is acceptable for furnishing the additional information required above.

Fur products and furs (T.D. 53064)—(1) Name or names (as set forth in the Fur Products Name Guide (16 CFR 301.0) of the animal or animals that produced the fur, and such qualifying statements as may be required pursuant to section 7(c) of the Fur Products Labeling Act (15 U.S.C. 69e(c)); (2) a statement that the fur product contains or is composed of used fur, when such is the fact; (3) a statement that the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact; (4) a statement that the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact; (5) name and address of the manufacturer of the fur product; (6) name of the country of origin of the furs or those contained in the fur product.

Glassware and other glass products classifiable under schedule 5, part 3C, Tariff Schedules of the United States, when imported in sets (T.D. 53079, *55977*)—(1) Statement of the separate value of each component article in the set.

Grain or grain and screenings (T.D. 51284)—(1) Statement on customs invoices for cultivated grain or grain and screenings that no screenings are included with the grain, or, if there are screenings included, the percentage of the shipment which consists of screenings commingled with the principal grain.

Hats or headwear classifiable under item 702.37 or 702.40 (T.D. 52114, *55977*)—(1) Statement as to whether or not the article has been bleached or colored.

Iron or steel, articles of, classifiable under schedule 6, part 2B, Tariff Schedules of the United States (T.D. 53092, *55977*)—(1) Statement of the percentages by weight of any metallic element used as an alloy in the articles.

Iron oxide (T.D. 49989, 50107)—For iron oxide to which a reduced rate of duty is applicable, (1) Statement of the method of preparation of the oxide, together with the patent number, if any.

Jewelry (T.D. 51676)—(1) Design or motif; (2) component material of chief value; (3) whether or not the metal in the article is plated with platinum, gold, or silver, or is colored with gold lacquer.

Lumber, rough, dressed, or worked, classifiable under schedule 2, part 1B, Tariff Schedules of the United States, and dutiable on the basis of board measure (T.D. 50498, 51906, *55977*)—(1) Quantity in board feet of the rough lumber before dressing.

Lumber, Eastern white pine (*also termed Northern white pine*) (*Pinus strobus*) *and red pine* (*also termed Norway pine*) (*Pinus resinosa*) which is classifiable under item 202.06, Tariff Schedules of the United States (T.D. 49643(8), 51906, 52620, 53846, *55977*)—(1) A declaration of the shipper or other person having knowledge of the facts that the species of lumber comprising the shipment is Eastern White pine (Pinus strobus) or red pine (Pinus resinosa).

Machine parts (T.D. 51616)—(1) Statement specifying the kind of machine for which the parts are intended, or if this is not known to the shipper, the kind or kinds of machines for which the parts are suitable.

Madeira embroideries (T.D. 49988)—(1) With respect to the materials used, furnish: (a) Country of production; (b) width of the material in the piece; (c) name of the manufacturer; (d) kind of material, indicating manufacturer's quality number; (e) landed cost of the material used in each item; (f) date of the order; (g) date of the invoice; (h) invoice unit value in the currency of the purchase; (i) discount from purchase price allowed, if any; (2) with respect to the finished embroidered articles, furnish: (a) Manufacturer's name, design number, and quality number; (b) importer's design number, if any; (c) finished size; (d) number of embroidery points per unit of quantity; (e) for each item, the cost of embroidery labor and the cost of sewing, if any, per unit of quantity; (f) total for overhead and profit added in arriving at the price or value of the merchandise covered by the invoice.

Needlework tapestries classifiable under schedule 3, part 5C, Tariff Schedules of the United States (T.D. 50369, *55977*)—(1) A statement of the separate cost of each fiber used.

News-reel films (T.D. 44703, 44938, *55977*)—(1) Statement of footage and title of each subject; (2) Declaration of shipper, cameraman or other person with knowledge of the facts identifying the films with the invoice and stating that the basic films were to the best of his knowledge and belief exposed abroad and returned for use as newsreel; (3) Declaration of importer that he believes the films entered by him are the ones covered by the preceding declaration and that the films are intended for use as newsreel.

Oils or products of such oils, classifiable under schedule 4, part 8A, Tariff Schedules of the United States, and subject to a specific rate of duty (T.D. 49640, *55977*)—State if article is derived from coconut, palm-kernel, palm oil, or other.

Paper and paper products (other than books, newspapers and periodicals which are not fashion periodicals) bearing printing of any kind, whether or not the printing was done by a lithographic process (T.D. 53056)—(1) Statement of the process employed in printing the paper or paper products.

Screenings or scalpings of grains or seeds (T.D. 51096)—(1) Whether the commodity is the product of a screening process; (2) if so, whether any cultivated grains have been added to such commodity; (3) if any such grains have been added, the kind and percentage of each.

Sugar in liquid form, and articles composed in part of beet or cane sugar (T.D. 49400)—(1) Statement for each lot of sugar in liquid form showing the percentage by weight of total soluble solids (or Brix) and the percentage by weight of total sugars; (2) statement for each kind or class of articles composed in part of cane or beet sugar showing the percentage by weight of total sugars derived from sugar beets or sugar cane.

Sugar, manufactured, articles containing 10 percent or more by weight of, as defined in I.R.C., section 4502(3) (T.D. 49867, 50106)—(1) If it is conceded that the com-

ponent material of chief value in an article is manufactured sugar, a statement to that effect should be made on the invoice with a statement of the percentage of total sugars in the finished product; (2) if manufactured sugar is not conceded to be the component material of chief value, the invoice must be accompanied by a statement in the following form containing the data indicated therein in accordance with the appended instructions:

UNITED STATES CUSTOMS SERVICE

Information as to commodities containing 10 percent or more by weight of manufactured sugar, as defined in I.R.C., section 4502(3), for use of U.S. customs authorities.

Name of manufacturer _____
Address _____

1. Kind and brand of product shipped to U.S. _____
2. Quantity produced in one manufacturing lot or batch (A) _____
3. Sugar used in producing one lot or batch:

Kind of manufactured sugar	*Quantity (A)*
_____	_____
_____	_____
_____	_____

First cost (B)	*Additional costs (C)*
_____	_____
_____	_____
_____	_____

Total cost (D)

_____
_____
_____

4. Other materials used in producing one lot or batch:

Kind	*Quantity (A)*
_____	_____
_____	_____
_____	_____

First cost (B)	*Additional costs (C)*
_____	_____
_____	_____
_____	_____

Total cost (D)

_____
_____
_____

I certify that the above information is correct.

Signature _____
Title or position _____
Date _____

INSTRUCTIONS FOR COMPILING DATA TO BE SHOWN ON FORM

1. Describe the product in terms used on invoices, giving name, brand, quality, number, etc. Use a separate form for each kind.

2. Show quantity produced in one typical batch or lot, recently manufactured, as to which cost records have been maintained.

3. Manufactured sugar is defined in section 4502(3) of the Internal Revenue Code as follows: The term "manufactured sugar" means any sugar derived from sugar beets or sugar cane, which is not to be, and, which shall not be, further refined or otherwise improved in quality; except sugar in liquid form which contains nonsugar solids (excluding any foreign substance that may have been added or developed in the product) equal to more than 6 per centum of the total soluble solids and except also sirup of cane juice produced from sugar cane grown in continental United States. The grades or types of sugar within the meaning of this definition shall include, but shall not be limited to, granulated sugar, lump sugar, cube sugar, powdered sugar, sugar in the form of blocks, cones, or molded shapes, confectioners' sugar, washed sugar, centrifugal sugar, clarified sugar, turbinado sugar, plantation white sugar, muscovado sugar, refiners' soft sugar, invert sugar, mush, raw sugar, sirups, molasses, and sugar mixtures.

4. It is preferable to show each kind of material used in addition to manufactured sugar. Several materials of relatively insignificant value may be grouped together, such as "Flavoring materials", "Coloring materials", "Seasoning materials", or "All other."

A. Show unit in pounds, as well as total quantity.

B. "First Cost" is the full cost of the material laid down at the manufacturing plant, at current domestic prices, without any deduction for any drawback or refund of import duties which may have been allowed or may be allowable. The amounts of any drawback or refund of import duties which have been allowed or which are allowable by reason of exportation should be stated separately.

C. "Additional costs" include all costs of storing, examining, handling, and preparing, up to the point where the materials are ready to be combined in the manufacturing process. Manufacturing costs and general expenses, occurring thereafter, should not be included, nor should profit.

D. "Total cost" is the total of "First cost" ex factory and "Additional costs."

5. When the additional information outlined above has been furnished once by an importer with an invoice of a recognized brand or brands of merchandise, it need not be furnished again for shipments entered by him for consumption or for warehousing at the same port in the same calendar year under the same brand name, provided the formula or method of manufacture of the brand has not changed. An invoice not accompanied by such additional information should identify the last shipment entered at that port by the importer for which such additional information was furnished. If the additional information was furnished in connection with an entry at one port, and the importer can secure from the collector at such port a certified copy of the invoice and additional information there filed, he may file them to fulfill the additional invoice requirement elsewhere. However, collectors shall not furnish copies of invoices except to, or with the consent of, and at the expense of the importer or his authorized agent.

Textile fiber products (T.D. 55085)—(1) The constituent fiber or combination of fibers in the textile fiber product, designating with equal prominence each natural or manufactured fiber in the textile fiber product by its generic name in the order of predominance by the weight thereof if the weight of such fiber is 5 per centum or more of the total fiber weight of the product; (2) the percentage of each fiber present, by weight, in the total fiber content of the textile fiber product, exclusive of ornamentation not exceeding 5 per centum by weight of the total fiber content; (3) the name, or other identification issued and registered by the Federal Trade Commission, of the manufacturer of the product or one or more persons subject to section 3 of the Textile Fiber Products Identification Act (15 U.S.C. 70a) with respect to such product; (4) the name of the country where processed or manufactured.

Tobacco (including tobacco in its natural state) (T.D. 44854, 45871)—(1) Specify in detail the character of the tobacco in each bale by giving (a) country and province of origin, (b) year of production, (c) grade or grades in each bale, (d) number of carrots or pounds of each grade if more than one grade is packed in a bale, (e) the time when, place where, and from whom purchased, (f) price paid or to be paid for each bale or package, or price for the vega or lot if purchased in bulk, or if obtained otherwise than by purchase state the actual market value per bale; (2) if an invoice covers or includes bales of tobacco which are part of a vega or lot purchased in bulk, the invoice must contain or be accompanied by a full description of the vega or lot purchased; or if such description has been furnished with a previous importation, the date and identity of such shipment; (3) packages or bales containing only filler leaf shall be invoiced as filler; when containing filler and wrapper but not more than 35 percent of wrapper, shall be invoiced as mixed; and when containing more than 35 percent of wrapper, shall be invoiced as wrapper.

Toys classifiable under item 737.25 or 737.30, Tariff Schedules of the United States (T.D. 49859, 50107, 52160, *55977*)—(1) Specify the actual over-all height of each stuffed figure of an animate object not having a spring mechanism:

Watch movements, and time-keeping, time-measuring, or time-indicating mechanisms, devices, and instruments, having 17 or less jewels, and dutiable under schedule 7, part 2E, Tariff Schedules of the United States, but not including movements designed for clocks and so stated on the invoice unless and until such time as the Commissioner of Customs issues a decision applicable to such movements (T.D. 54286, *55977*)—For all commercial shipments of such articles, there shall be required to be shown on the invoice, or on a separate sheet attached to and constituting a part of the invoice, such information as will reflect with respect to each group, class, category, type, or model of instrument in the shipment, the following:

(A) The commercial description (ebauche calibre number and ligne size) and style of each class of watch movement, time-keeping mechanism, device, or instrument covered by the invoice.

(B) The name of the manufacturer or assembler of the exported articles, and also the name of the supplier when the manufacturer or assembler is not the supplier.

(C) In the case of watch movements, the distinguishing marks (symbols) with which the watch movements are marked pursuant to the declaration annexed to the Swiss Trade Agreement.

(D) As to watch movements, time-keeping mechanisms, devices, or instruments, after the complete instruments were first assembled:

	Yes	*No*
(1) Were they tested or observed at different temperatures?	____	____
(2) Were they tested or observed for uniformity in rate as the mainspring runs down?	____	____
(3) Were corrections made to eliminate or reduce the differences in rates revealed by the tests in (1) and (2)?	____	____
(4) Were they tested or observed in more than one position?	____	____
(5) Was there a prescribed limit of 45 seconds or less between positions?	____	____
(6) Was there a prescribed tolerance of 45 seconds or less fast in any one position?	____	____
(7) Were they corrected but marked with a different number of position adjustments than the number of positions (at least two) in which tested or observed?	____	____

	Yes	No
(8) Were corrections made, other than moving the regulator arm, which affected the rate of time-keeping in any position?	----	----
(9) Were corrections made which resulted in eliminating or reducing the differences between the rates in various positions (as revealed in the tests) to a prescribed limit of 45 seconds or less?	----	----
(10) Were corrections made which altered the difference between the rates in various positions where there was a prescribed tolerance not exceeding 45 seconds fast for one or more positions?	----	----

(E) If the answers are "yes" to questions (3), (7), (9) or (10) under (D) immediately above, and the instruments are marked unadjusted, or are marked with a lesser number of position adjustments than the number of positions in which tested, describe in detail the corrections made.

However, when the foregoing information has been filed once directly with the Bureau of Customs, Washington 25, D.C., in quadruplicate with one additional copy for each port of entry at which entries may be filed, invoices covering shipments of that item to the ports named in the original statement or in subsequent statements filed for additional ports need only identify the item and the statement already filed. This information will then be acceptable until the facts about the item change, at which time a new statement is necessary.

Wool products, except carpets, rugs, mats, and upholsteries, and wool products made more than 20 years before importation (T.D. 50388, 51019)—(1) The percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (a) wool; (b) reprocessed wool; (c) reused wool; (d) each fiber other than wool if said percentage by weight of such fiber is 5 per centum or more; and (e) the aggregate of all other fibers; (2) the maximum percentage of the total weight of the wool product, of any nonfibrous loading, filling, or adulterating matter; and (3) the name of the manufacturer of the wool product, except when such product consists of mixed wastes, residues, and similar merchandise obtained from several suppliers or unknown sources.

Wool and hair—See section 13.12 of these regulations for additional information required on invoices.

(i) When more than one invoice is included in the same entry, all invoices shall bear the entry number and shall be numbered consecutively, beginning with number 1.

(j) If the invoice or invoices filed with an entry are made out on more than two sheets of paper, each sheet shall be legibly numbered by the importer on the bottom of its face. The numbering shall begin with number 1 for the first sheet of the first invoice and continue in a single series of numbers through all the sheets of all the invoices attached to one summary sheet.

(Secs. 481, 484, 46 Stat. 719, 722, as amended, sec. 101, 76 Stat. 72; 19 U.S.C. 1481, 1484; Sch. 1, Pt. 13, Hdnotes 1, 2, Tariff Schedules of the United States)

§ 8.15 Special customs invoices required; exceptions.

(a) Pursuant to the provisions of section 484(b), Tariff Act of 1930, as amended, 18a special customs invoice is hereby required to be produced in connection with each entry of imported merchandise (see § 8.9), if such merchandise is not provided for in paragraph (c) or (d) of this section and is:

(1) Imported in pursuance of a purchase or agreement to purchase and has an aggregate purchase price, including all expenses incident to placing the goods in condition, packed ready for shipment to the United States, over $500, as determined by the collector, or imported otherwise than in pursuance of a purchase or agreement to purchase and has an aggregate value over $500, as determined in accordance with § 14.3 of this chapter;

(2) Subject to a rate of duty in any manner dependent upon value or conditionally free of duty and subject to a rate of duty dependent upon value; or

(3) Subject by reason of a national emergency to an import permit requirement of which the Bureau has issued a notice.

However, except for merchandise described in subparagraph (3) of this paragraph, no special customs invoice shall be required for such merchandise which is conditionally free of duty, if all free entry documents and evidence required to establish the exemption from duty are produced at the time of entry. And, if such documents and evidence are produced within 6 months after entry, the bond obligation to produce a special customs invoice shall be canceled without the collection of liquidated damages.

(b) For all imported merchandise for which a special customs invoice is not required under the preceding paragraph and which is not provided for in the following paragraph, a commercial invoice prepared in the manner customary for commercial transactions involving articles such as or offered for entry and containing any special data required by § 8.13(h) shall be produced at the time of entry or within 6 months thereafter (see § 8.9). In lieu of a required commercial invoice, the collector in his discretion may accept a copy thereof made otherwise than by a photostatic process and bearing a declaration of the foreign seller or shipper, or of the importer, that it is a true copy, or a photostatic copy of the required invoice without such a declaration.

(c) No special customs or commercial invoice, or bond for the production of either shall be required in conection with the entry of articles listed hereafter in this paragraph, unless such an invoice is available otherwise than by reason of a customs requirement, but the consignee or owner in each case shall furnish any invoice, memorandum invoice, or bill pertaining to the goods which may be in his possession or available to him or, if no such invoice or bill is available, he shall furnish a pro forma invoice containing an adequate description of the articles, a statement of the quantity thereof, and a statement of their cost or value. The articles subject to the foregoing requirements are as follows:

(1) Articles having an aggregate value, as specified in the first two numbered subdivisions of paragraph (a) of this section, of $500 or less.

(2) Articles not intended for sale in their imported condition or in any other form and not brought in on commission for any person other than the importer, if the aggregate value determined in accordance with § 14.3 of this chapter does not exceed $1,000.

(3) Articles for which an appraisement entry is accepted in accordance with § 8.50.

(4) Articles accompanying a person arriving in the United States and articles declared by such a person upon his arrival as not accompanying him but imported or to be imported in connection with his arrival; all the foregoing which are not intended for sale or any commercial use and are not brought in on commission for any person not included in the declaration.

(5) Household and personal effects of all kinds provided for in schedule 8, part 2A, Tariff Schedules of the United States.

(6) Aircraft, automobiles and other vehicles, boats, horses, and the usual equipment of any of the foregoing, if taken abroad by the owner or his agent for noncommercial use and returned by or for the account of such owner in accordance with the provisions of § 10.42 of this chapter.

(7) Articles sent by persons in foreign countries as gifts to persons in the United States.

(8) Articles entitled to free entry under schedule 8, part 1, Tariff Schedules of the United States, if the applicable regulations are complied with. (See §§ 10.1 (a), 10.2 (a), 10.66, 10.67, and 25.16 of this chapter.)

(9) Articles returned to the United States after having been exported for repairs or alterations under item 806.20 or 806.30, Tariff Schedules of the United States.

(10) Articles shipped aboard, not delivered to the consignee, and returned to the United States.

(11) Articles exported from continuous customs custody within 6 months after the date of entry.

(12) Articles consigned to, or entered in the name of, any agency of the United States Government.

(13) Currency and coins, if brought into the United States as mediums of exchange.

(14) Postage and revenue stamps, canceled or uncanceled, and government stamped envelopes or post cards bearing no printing other than the official imprint thereon.

(15) Articles provided for in section 465 or 466, Tariff Act of 1930.

(16) Articles imported as supplies, stores, or equipment of the importing carrier and subsequently made subject to entry pursuant to section 446. Tariff Act of 1930.

(17) Ballast (not including cargo used for ballast) landed from a vessel and delivered for consumption.

(18) Articles coming directly into the United States from any of its insular possessions other than Puerto Rico, if

covered by the certificate of origin provided for in § 7.8(a) of this chapter.

(19) Articles accorded free entry as "Philippine articles". See § 16.26 of this chapter.

(20) Articles, whether privileged or nonprivileged, resulting from manipulation or manufacture in a foreign-trade zone.

(21) Archeological articles for exhibition and not for sale, if imported by an institution established for the encouragement of the arts, science, or education.

(22) Corpses.

(23) Screenings contained in bulk importations of grain or seeds.

(24) Articles accorded free entry under item 850.10 or 851.10, Tariff Schedules of the United States.

(25) Public documents accorded free entry under item 840.00, Tariff Schedules of the United States.

(26) Articles entered under item 812.30, 852.20, 862.10 or 862.20, or schedule 8, part 5C, Tariff Schedules of the United States, except as provided for in the last sentence of § 10.36(a) of this chapter.

(27) Articles accorded free entry under item 820.40, 822.20 or 841.20, Tariff Schedules of the United States.

(28) Racing pigeons.

(29) Rubber, crude.

(30) The following articles when unconditionally free of duty or subject only to a specific rate of duty not depending on value:

(i) Fertilizer and fertilizer materials.

(ii) Fish, shellfish, and fish and shellfish products such as shells, bones, cuttlefish bones, eggs, livers, sounds, fins, skins, tails, cuttings, and waste, but not including fish or fish livers in air-tight containers.

(iii) Flower bulbs.

(iv) Fruits and vegetables in their natural state.

(v) Newspapers and newsreel films.

(vi) Pulpwood.

(31) Crude petroleum and liquid derivatives of crude petroleum which are not subject to a rate of duty based upon or regulated in any manner by value, imported by pipeline or in bulk.

(d) No special customs invoice or commercial invoice shall be required for articles with respect to which it shall be established to the satisfaction of the collector that the importer cannot by reason of conditions beyond his control furnish a complete and accurate invoice, if the importer files with the entry any invoice or invoices received from the seller or shipper, a statement pointing out in exact detail the inaccuracies, omissions, or other defects in such invoice or invoices, and an executed pro forma invoice as required by the collector, and furnishes any other information required by the collector or appraiser for purposes of examination, classification, and appraisement of the merchandise. The entry bond shall be liable for the production of a correct invoice, which liability shall be deemed satisfied upon full compliance with the conditions herein prescribed.

(Secs. 484, 498, 623, 46 Stat. 722, as amended, 728, as amended, 759, as amended; 19 U.S.C. 1484, 1498, 1623)

§ 8.16 Entered value; importers may add to or deduct from the invoice value.

The person making entry shall show in clear detail on the invoice or on a statement attached thereto each addition to or deduction from the invoice value of merchandise under section 487, Tariff Act of 1930, as amended,[19] together with the item to which it refers, indicating the entered unit value. He shall likewise show the computation in detail of the aggregate amount of all the additions or deductions made by the importer to make the aggregate entered value.

(Sec. 487, 46 Stat. 725, as amended; 19 U.S.C. 1487)

§ 8.18 Declaration on entry.

(a) The consignee in whose name an entry is made under the provisions of section 484, Tariff Act of 1930, as amended, shall execute the declaration applicable to the circumstances of the particular case in accordance with section 485(a) of that act,[21] except that the declaration need not be under oath.

(b) In the case of successive importations of books, magazines, newspapers, and periodicals within the purview of section 485(b) of the tariff act,[22] one declaration filed at the time of the arrival of the first importation will be sufficient.

(c) When entry is made by an agent,[23] he shall execute on the entry form, as agent, the declaration of the consignee applicable to the person for whom he acts as agent. An agent shall not execute the declaration of a nominal consignee unless he is acting as agent for a nominal consignee. If the agent has duly authorized agent. A nonresident owner's declaration shall not be accepted knowledge of the facts and is authorized under a proper power of attorney to execute the declaration of the principal (consignee), no further declaration of the consignee shall be required; otherwise a declaration of the consignee on customs Form 3347–A shall be produced with the entry or a charge for the production of such declaration made against the appropriate entry bond.[24] No separate bond of the agent shall be required.

(d) A consignee in whose name an entry is made who desires under the provisions of section 485 (d), Tariff Act of 1930,[25] to be relieved from direct liability for the payment of increased and additional duties shall file a declaration of the actual owner of the merchandise on customs Form 3347. If the consignee desires to be relieved also from the liability for the payment of such duties voluntarily assumed by him in the single-entry bond which he filed in connection with the entry or in his term bond against which the entry was charged, he shall file with the collector of customs within 90 days from the date

---

[19] "The consignee or his agent may, under such regulations as the Secretary of the Treasury may prescribe, at the time entry is made, make in the entry such additions to or deductions from the cost or value given in the invoice as, in his opinion, may raise or lower the same to the value of such merchandise." (Tariff Act of 1930, sec. 487, as amended; 19 U.S.C. 1487)

[21] "Every consignee making an entry under the provisions of section 484 of this Act shall make and file therewith, in a form to be prescribed by the Secretary of the Treasury, a declaration under oath, stating—

"(1) Whether the merchandise is imported in pursuance of a purchase or an agreement to purchase or whether it is imported otherwise than in pursuance of a purchase or agreement to purchase;

"(2) That the prices set forth in the invoice are true, in the case of merchandise purchased or agreed to be purchased; or in the case of merchandise secured otherwise than by purchase or agreement to purchase, that the statements in such invoice as to value or price are true to the best of his knowledge and belief;

"(3) That all other statements in the invoice or other documents filed with the entry, or in the entry itself, are true and correct; and

"(4) That he will produce at once to the collector any invoice, paper, letter, document, or information received showing that any such prices or statements are not true or correct." (Tariff Act of 1930, sec. 485(a); 19 U.S.C. 1485(a))

"The Secretary of the Treasury shall prescribe separate forms for the declaration in the case of merchandise which is imported in pursuance of a purchase or agreement to purchase and merchandise which is imported otherwise than in pursuance of a purchase or agreement to purchase." (Tariff Act of 1930, sec. 485(e); 19 U.S.C. 1485(e))

[22] "The Secretary of the Treasury is authorized to prescribe regulations for one declaration in the case of books, magazines, newspapers, and periodicals published and imported in successive parts, numbers, or volumes, and entitled to free entry." (Tariff Act of 1930, sec. 485(b); 19 U.S.C. 1485(b))

[23] The agent referred to in sec. 485 (c), Tariff Act of 1930, is a person acting under written authority from the consignee who makes entry in the name of the consignee. A nominal consignee who makes entry in his own name is not an agent within the purview of such sec. 485 (c).

In view of the specific provision in sec. 485 (f) of the tariff act, as amended, that when the merchandise is consigned to an individual, a partnership, or a corporation the consignee's declaration may be made by any person who has knowledge of the facts and who is specifically authorized by such individual, a member of the partnership, or an officer of such corporation to make such declaration, the person who executes the declaration on behalf of the individual, partnership, or corporation is not considered to be an agent within the purview of sec. 485 (c) and is not required by sec. 485 (c) to produce, or give bond to produce, any further declaration.

[24] "In the event that an entry is made by an agent under the provisions of section 484 of this Act and such agent is not in possession of such declaration of the consignee, such agent shall give a bond to produce such declaration." (Tariff Act of 1930, sec. 485 (c); 19 U. S. C. 1485 (d))

[25] "A consignee shall not be liable for any additional or increased duties if (1) he declares at the time of entry that he is not the actual owner of the merchandise, (2) he furnishes the name and address of such owner, and (3) within ninety days from the date of entry he produces a declaration of such owner conditioned that he will pay all additional and increased duties, under such regulations as the Secretary of the Treasury may prescribe. Such owner shall possess all the rights of a consignee." (Tariff Act of 1930, sec. 485 (d); 19 U. S. C. 1485 (d))

established to the satisfaction of the collector that the importer cannot by reason of conditions beyond his control

amended; 19 U.S.C. 1467)

[2] "Every consignee making an entry under the provisions of section 484 of this Act shall

individual, a member of a firm, or an officer of such corporation to make such

of entry a superseding bond on customs Form 7601 of the actual owner whose declaration on customs Form 3347 has been filed in accordance with section 485 (d) and the regulations in this part. The filing of the owner's declaration and of the superseding bond by the nominal consignee is optional and no bond shall be required for the production of either. Neither the owner's declaration nor the superseding bond shall be accepted unless filed by the nominal consignee or his duly authorized agent. A nonresident owner's declaration shall not be accepted as a compliance with section 485 (d) unless there is filed therewith a bond of such owner on customs Form 7551 or 7553, with a resident corporate surety thereon.

(Sec. 485, 486, 46 Stat. 724, as amended, 725, as amended; 19 U.S.C. 1485, 1486)

§ 8.19 Powers of attorney.

(a) A power of attorney may be executed for the transaction of a specified part or for all the customs business of the principal, except that a separate power of attorney on customs Form 5295 or 5295–A shall be required for filing protests.[26] Customs Form 5291 may be used by individuals and customs Form 5293 by corporations for giving powers of attorney to transact customs business. If a customs power of attorney is not on a prescribed customs form, it shall be either a general power of attorney with unlimited authority [26a] or a limited power of attorney as explicit in its terms as is the prescribed customs form and executed in the same manner as the prescribed form. If for the execution of sealed instruments, it shall be under seal. A customs power of attorney to a minor shall not be accepted. A customs power of attorney executed under authority of another power of attorney shall be accepted if the grantor of the original power of attorney is a nonresident and if such original power contains express authority from the principal for the appointment of a subagent or subagents. Customs powers of attorney of residents shall be without power of substitution except for the purpose of executing shippers' export declarations. A subagent so appointed cannot delegate his authority. A customs power of attorney executed in favor of a licensed customhouse broker may specify that the power of attorney is granted to the customhouse broker to act through any of its licensed officers or any employee specifically authorized to act for such customhouse broker by power of attorney filed by the customhouse broker with the collector of customs.

(b) An individual, other than a married woman, may execute a power of attorney to sign as surety on customs bonds. If the power is limited to bonds of one or several importers, such importers shall be named. Such power shall have attached a justification of the donor in a specified amount.

(c) A trustee may execute a power of attorney for the transaction of customs business incident to the trusteeship.

(d) One member of a partnership may execute a power of attorney in the name of the partnership for the transaction of all its customs business, except the execution of sealed instruments. Such power shall recite the names of all members of the partnership and shall be limited to a period of not more than 2 years from the date of receipt of the power by the collector. When a new firm is formed by a change of membership, no power of attorney filed by the antecedent firm shall thereafter be recognized for any customs purpose. A customs power of attorney given by a partnership for the execution of sealed instruments shall be signed and sealed by each partner.

(e) A power of attorney shall not be required when the person signing customs documents on behalf of a resident corporation is known to the collector to be the president, vice president, treasurer, or secretary of the corporation. When a power of attorney is required for a resident corporation, it shall be executed by a person duly authorized for such purpose, and a certificate of the secretary, assistant secretary, or other corporate officer, but not the person executing the power, showing the authority of such officer or person to execute the power of attorney shall be executed under seal as follows:

CERTIFICATE

I, _____, certify that I am the _____ of _____, organized under the laws of the State of _____; that _____, who signed this power of attorney on behalf of the donor, is the _____ of the said corporation; and that said power of attorney was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body as the same appears in a resolution of the Board of Directors passed at a regular meeting held on the _____ day of _____, now in my possession or custody. I further certify that the resolution is in accordance with the articles of incorporation and by-laws of said corporation.

In witness whereof, I have hereunto set my hand and affixed the seal of said corporation, at the City of _____ this _____ day of _____, 19____.

A power of attorney executed by a nonresident corporation shall be supported by the following documents which, except the certificate of incorporation, shall be certified as correct by the secretary of the corporation under its corporate seal: (1) a certificate from the proper public officer of the country showing the legal existence of the corporation, (2) a copy of that portion of the charter or articles of incorporation which shows the scope of the business of the corporation and the governing body thereof, (3) if the authority of the grantor is derived from the charter or articles of incorporation, there shall be filed also a copy of that portion thereof which contains such authority or, if the authority of the grantor is derived from the governing body, there shall be filed a copy of the by-laws or other document which authorizes the governing body to designate others to appoint agents or attorneys, together with a copy of the resolution, minutes, or other document by which the governing body conferred the authority on the grantor.

(f) No declaration executed by the attorney in fact of a corporation shall be accepted unless his power of attorney specifically authorizes him to make such a declaration.

(g) A power of attorney filed by one who is not a resident of the United States shall not be accepted unless the agent designated thereby is a resident of the United States and is authorized to accept service of process against such nonresident.

(h) When a power of attorney which is not limited to acts transacted at a specified port has ben filed and it is desired to use it at another port, the collector at the port where it is filed, upon request of the collector at the other port or upon request from the person, firm, or corporation which executed the power, shall forward a certified copy thereof to the collector at the second port. Any expense in connection with the preparation of such documents shall be borne by the parties in interest.

(i) Unless a power of attorney specifies that it authorizes the donee to act thereunder in all customs collection districts, the number of each district in which the donee is authorized to act thereunder shall be stated. The donor shall file a power of attorney in a sufficient number of copies for distribution to each district in which the donee is to act. The collector of customs with whom a power of attorney is filed, irrespective of whether his district is named therein, shall approve it, if it is in the correct form and the provisions of this section are complied with, and forward any copies intended for other districts to the districts in which the donee is to act.

(j) An individual (but not a partnership, association, or corporation) who is not a regular importer may appoint a relative as his agent for customs purposes by executing a power of attorney applicable to a single non-commercial shipment by writing, printing, or stamping and subscribing on the invoice, or a separate paper attached thereto, the following statement:

_____ of _____
Name Address

is hereby authorized to execute, as an agent who has knowledge of the facts, pursuant to the provisions of section 485 (f), Tariff Act

---

[26] See § 17.2 of this chapter.

[26a] The following is an example of an acceptable general power of attorney with unlimited authority:

Know all men by these presents, that _____,
(Name of principal)

_____
(State legal designation, such as corporation, individual, etc.)

residing at _____ and doing business under the laws of the State of _____ hereby appoints _____

_____
(Name, legal designation, and address)

as a true and lawful agent and attorney of the principal named above with full power and authority to do and perform every lawful act and thing the said agent and attorney may deem requisite and necessary to be done for and on behalf of the said principal without limitation of any kind as fully as said principal could do if present and acting, and hereby ratify and confirm all that said agent and attorney shall lawfully do or cause to be done by virtue of these presents until and including _____, or until notice
(Date)

of revocation in writing is duly given before that date.

_____
(Principal's name)

of 1930, as amended, the consignee's and owner's declarations provided for in section 485 (a) and (d), Tariff Act of 1930, and to enter on my behalf or for my account the goods described in the attached invoice which contains a true and complete statement of the facts concerning this shipment.

Date _____, 19__.
Signature of importer _____
Address _____

(k) For the purposes of this section "resident" shall mean an individual who resides within, or a partnership, one or more of whose partners reside within, the customs territory of the United States or the Virgin Islands, or a corporation incorporated in any State, Territory, or possession within the customs territory of the United States or in the Virgin Islands.

§ 8.20 Incomplete entry; bonds for the production of documents.

Unless otherwise prescribed in the regulations in this part, a bond may be given on the appropriate form for the production of any required document which is not available at the time of entry.

(Sec. 490, 46 Stat. 726; 19 U.S.C. 1490)

§ 8.21 Estimation of duties; classification.

(a) When the entry is filed, the classification and values stated therein shall be compared with the description and values in the invoice and the proper amount of duties estimated by the customs officer designated to accept entries.

(b) The rates of duty at which the entry is passed and the appropriate item numbers of the Tariff Schedules of the United States shall be noted by the importer with black ink in the left-hand margin of the invoice.

(Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484)

§ 8.22 Designation of merchandise to be examined.

(a) Pursuant to section 499, Tariff Act of 1930, as amended,[21] the collector shall designate in the appropriate spaces on customs Form 6417 and with respect to each invoice, the packages to be examined and the place where the examination is to be made if elsewhere than at the public stores. The designation of packages for examination shall be by marks and numbers or, whether or not the packages bear marks and numbers, by minimum percentages of packages or quantities, as may be determined by the collector. He shall also indicate the examination packages on the permit and, if he deems it necessary, on the entry. The order for examination on customs Form 6417 shall be signed by the collector, the assistant collector, a deputy collector, or a customs officer officially acting as such. If the merchandise is bulky, inflammable, explosive, or dangerous, the collector shall direct examination on the wharf or at any other suitable place, subject to the approval of the appraiser. When merchandise is to be gauged, measured, or weighed, the collector shall so indicate on the invoice, the permit, and, if he deems it necessary, on the entry. As to the designation for examination of merchandise to be released under immediate delivery permits, see § 8.59(c).

(b) When a portion of a zone lot of nonprivileged foreign merchandise, covered by one invoice, the contents and value of packages of which are uniform or the merchandise is identical as to character and value although differing as to quantity and aggregate value per package, has been entered and packages or quantities thereof have been designated for examination for customs purposes, the collector with the concurrence of the appraiser may, if they consider an examination unnecessary, permit subsequent entries for consumption from such zone lot of merchandise to be made by the same importer at the same port of entry on the basis of the first examination. Each subsequent entry of a portion of such a zone lot of merchandise shall identify the first consumption entry made by the importer of a portion of the lot.

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

§ 8.23 Release of merchandise.

(a) The release order issued by the carrier under the provisions of section 484 (j), Tariff Act of 1930,[22] shall be executed on customs Form 7529 if a carrier's certificate is used in making entry, unless it is included in the official entry form or unless a combined carrier's certificate and release order as described in § 8.6 (e) has been furnished. When a certified duplicate bill of lading is used for entry purposes under the provisions of section 484 (i), Tariff Act of 1930, the carrier's release order may be endorsed thereon and shall be in substantially the following form:

In accordance with the provisions of section 484 (j), Tariff Act of 1930, authority is hereby given to release the articles covered by this certified duplicate bill of lading to:

This order may be qualified as follows:

(1) "For transfer to the bonded warehouse designated in the warehouse entry," if the merchandise is entered for warehousing.

(2) "For transfer to the bonded carrier designated in the transportation entry," if the merchandise is entered for transportation in bond.

(3) "For transfer to the carrier designated in the export entry," if the merchandise is entered for exportation.

(b) A release order from the proprietor of a bonded warehouse covering merchandise therein shall be substantially in the same form.

(c) The merchandise may be released to the person named in the bill of lading in the absence of a specific release order from the carrier, provided the carrier concerned shall have filed a blanket order authorizing release to the consignee in such cases.

(d) The release order at the bottom of customs Form 7529 may be modified and executed to make it a blanket release order for the shipments covered by a blanket carrier's certificate as provided for by § 8.6 (f).

(Sec. 484, 46 Stat. 722, as amended; 19 U. S. C. 1484)

§ 8.24 Release of merchandise in customs custody after liquidation; merchandise refused by consignee.

(a) No merchandise remaining in customs custody after liquidation of the entry shall be released until the full amount of liquidated duties has been paid. When duties are unpaid, the collector shall not permit one importation to pass out of his custody with a view of holding a lien upon a subsequent importation.

---

[21] "Imported merchandise, required by law or regulations made in pursuance thereof to be inspected, examined, or appraised, shall not be delivered from customs custody, except under such bond or other security as may be prescribed by the Secretary of the Treasury to assure compliance with all applicable laws, regulations, and instructions which the Secretary of the Treasury or the Customs Service is authorized to enforce, until it has been inspected, examined, or appraised and is reported by the appraiser to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United States. The collector shall designate the packages or quantities covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise and shall order such packages or quantities to be sent to the public stores or other places for such purpose. Not less than one package of every invoice and not less than one package of every ten packages of merchandise, shall be so designated unless the Secretary of the Treasury, from the character and description of the merchandise, is of the opinion that the examination of a less proportion of packages will amply protect the revenue and by special regulation or instruction, the application of which may be restricted to one or more individual ports or to one or more importations or one or more classes of merchandise, permit a less number of packages to be examined. All such special regulations or instructions shall be published in the weekly Treasury Decisions within fifteen days after issuance and before the liquidation of any entries affected thereby. The collector or the appraiser may require such additional packages or quantities as either of them may deem necessary. If any package is found by the appraiser to contain any article not specified in the invoice and he reports to the collector that in his opinion such article was omitted from the invoice with fraudulent intent on the part of the seller, shipper, owner, or agent, the contents of the entire package in which such article is found shall be liable to seizure, but if the appraiser reports that no such fraudulent intent is apparent then the value of said article shall be added to the entry and the duties thereon paid accordingly. If a deficiency is found in quantity, weight, or measure in the examination of any package, report thereof shall be made to the collector, who shall make allowance therefor in the liquidation of duties * * *." (Tariff Act of 1930, sec. 499, as amended; 19 U. S. C. 1499)

[22] Merchandise shall be released from customs custody only to or upon the order of the carrier by whom the merchandise is brought to the port at which entry is made, except that merchandise in a bonded warehouse shall be released from customs custody only to or upon the order of the proprietor of the warehouse. * * *." (Tariff Act of 1930, sec. 484 (j); 19 U. S. C. 1484 (j))

(b) Merchandise consigned to anyone without his authority and refused by him shall be treated as unclaimed.

§ 8.25 Liens for freight, charges, or contribution in general average.

(a) A notice filed with the collector pursuant to section 564, Tariff Act of 1930,[29] of lien for freight, charges, or contribution in general average[30] shall be on customs Form 3485, signed by the authorized agent of the carrier and certified by him.

(b) When the cargo of a vessel is subject to contribution in general average, a preliminary notice thereof may be filed with the collector and individual notices of lien filed thereafter. Upon receipt of a preliminary notice, the collector shall withhold release of any merchandise imported in the vessel for 2 days (exclusive of Sunday and holidays) after such merchandise is taken into customs custody, unless proof is submitted that the claim for contribution in general average has been paid or secured.

(c) A notice of lien upon goods entered for immediate transportation shall be filed by the carrier with the collector of customs at destination.

(d) No notice of lien against goods shall be accepted by the collector after their forefeiture under any provision of law; nor after they are sold pursuant to section 491 or 559, Tariff Act of 1930, as amended; nor after customs release; nor, in the case of goods abandoned to the Government under section 506 (1) or 563 (b), Tariff Act of 1930, as amended, after the receipt and acceptance of the notice of abandonment. Any notice of lien received thereafter shall be returned with a statement thereon as to the reason for rejection. The acceptance of any notice of lien shall not in any manner affect the order of disposition and accounting for the proceeds of sales of forfeited and abandoned property provided for in §§ 15.6, 20.6, and 23.20 of this chapter.

(e) The collector shall not adjudicate any dispute respecting the validity of any lien, but when the amount of such lien depends upon the quantity or weight of merchandise actually landed, the collector shall hold the lien satisfied upon the payment of an amount computed upon the basis of the report made by the United States appraiser, weigher, or gauger.

(f) When any doubt exists as to the validity of a lien filed with the collector, he may exact a bond of indemnity to save him harmless from any personal liability which may result from withholding the release of the goods.

(g) Proof that the lien has been satisfied or discharged shall consist of a written release or receipt signed by the claimant and filed with the collector, showing payment of the claim in full.

(Sec. 564, 46 Stat. 747; 19 U.S.C. 1564)

§ 8.26 Recall of merchandise released from customs custody; requests of appraiser for additional packages or quantities.

(a) If at any time after entry the collector determines, either from the appraiser's report or otherwise, that any merchandise contained in an importation is for any reason not entitled to admission into the commerce of the United States, he shall promptly demand the return to customs custody of any such merchandise which has been released. The demand for the return of the merchandise shall be by letter, or on customs Form 3483, customs Form 4647, or other appropriate form.

(b) If the appraiser desires additional packages or quantities of merchandise for the purpose of examination, inspection, or appraisement, he shall notify the importer on customs Form 3483 to deliver them to the appraiser's stores or other place designated by him. If the request of the appraiser is not promptly complied with, he shall request the collector to make a demand under the appropriate bond for the return of the merchandise to customs custody.

(c) At any time before the appraiser's report of appraisement the collector may demand the return to customs custody of such additional packages or quantities of merchandise as the appraiser may desire, pursuant to section 499, Tariff Act of 1930, as amended, and paragraph (b) of this section, for the purpose of examination, inspection, or appraisement. The demand shall be by letter or on customs Form 3483 or other appropriate form. The collector may also demand the return to customs custody of any merchandise for the purpose of requiring it to be marked or labeled pursuant to the provisions of schedule 7, part 2E, headnote 4(c), Tariff Schedules of the United States, section 304, Tariff Act of 1930, as amended, the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, or the Textile Fiber Products Identification Act. The demand for the purpose shall be on customs Form 4647, not later than 20 days after the appraiser's report of appraisement.

(d) The demand for redelivery to customs custody for any purpose specified in this section shall be made on the actual owner, and not on the nominal consignee, if the latter has filed a superseding bond of the actual owner on customs Form 7601 before the date of a proper demand hereunder for redelivery for the purpose specified.

(e) The demand or notification shall be prepared in duplicate and the retained copy, with the date of mailing or delivery noted thereon, shall be made part of the entry record.

(Secs. 499, 505, 623, 46 Stat. 728, as amended, 732, 759, as amended; 19 U.S.C. 1499, 1505, 1623)

Entry for Consumption

§ 8.27 Form of entry.

Entry for consumption shall be made on customs Form 7501. Such entries shall be numbered in two series, one for dutiable consumption entries and the other for free consumption entries. The dutiable entries shall be made in triplicate; the free entries shall be made in duplicate. An additional legible copy of the entry, marked or stamped "For Internal Revenue Purposes," shall be presented for each entry covering tobacco materials, tobacco products, cigarette papers and tubes when the entry of those articles is subject to Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275) and tax is payable to customs upon release of such articles or if tobacco materials are to be released in accordance with § 11.2(a) of this chapter.

(Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484)

§ 8.28 Release under bond; deposit of estimated duties; permit.

(a) When the importer desires the release from customs custody of any part of the merchandise before (1) the full amount of duties, including dumping or other special duties and charges, due thereon or the right to free entry has been ascertained by liquidation of the entry, (2) the right of such merchandise to admission into the United States has been determined by the proper officer, or (3) any document relating thereto required by law or regulations has been furnished, he shall, except as hereinafter indicated, file a bond on customs Form 7551, 7553, or other appropriate form, at the time of entry or prior to such release.[31] Such a bond shall not be re-

---

[29] "Whenever a collector of customs shall be notified in writing of the existence of a lien for freight, charges, or contribution in general average upon any imported merchandise sent to the appraiser's store for examination, entered for warehousing or taken possession of by him, he shall refuse to permit delivery thereof from public store or bonded warehouse until proof shall be produced that the said lien has been satisfied or discharged. The rights of the United States shall not be prejudiced or affected by the filing of such lien, nor shall the United States or its officers be liable for losses or damages consequent upon such refusal to permit delivery. If merchandise, regarding which such notice of lien has been filed, shall be forfeited or abandoned and sold, the freight, charges, or contribution in general average due thereon shall be paid from the proceeds of such sale in the same manner as other lawful charges and expenses are paid therefrom." (Tariff Act of 1930, sec. 564; 19 U. S. C. 1564)

[30] The term "freight" means the carrier's charge for the transportation of the goods from the place of shipment in the foreign country to final destination in the United States. The term "charges" means the charges due to or assumed by the claimant of the lien which are incident to the shipment and forwarding of the goods to destination in the United States, but does not include the purchase price, whether advanced or to be collected, nor other claims not connected with the transportation of the goods. "General average" means the liability to contribution of the owners of a cargo which arises when a sacrifice of a part of such cargo has been made for the preservation of the residue or when money is expended to preserve the whole. It only arises from actions impelled by necessity.

[31] "Imported merchandise, required by law or regulations made in pursuance thereof to be inspected, examined, or appraised, shall not be delivered from customs custody, except under such bond or other security as may be prescribed by the Secretary of the Treasury to assure compliance with all applicable laws, regulations, and instructions which the Secretary of the Treasury or the Customs Service is authorized to enforce,

quired when all the merchandise in an importation has remained in customs custody at the public stores or on the wharf or other place in charge of a customs officer until it has been inspected, examined, and appraised, and has been found to comply with all laws and regulations governing its admission into the commerce of the United States, and until there have been produced all documents for the production of which a bond is required by law or regulations if not filed at time of entry.

(b) The estimated duties, if any, having been deposited as required by section 505, Tariff Act of 1930,[32] and the bond filed, a permit on customs Form 7501–A shall be issued and delivered to the importer or his agent, to be by him sent to the inspector in charge of the merchandise, who shall release to or upon the order of the carrier that part of the merchandise not designated for examination: *Provided*, That the collector may authorize the appraiser to permit an examiner to release both examined and unexamined packages in a shipment examined by such officer at a place not in charge of a customs officer, when this can be done without any real interference with the performance of the examiner's regular duties.

(c) Estimated duties need not be deposited when a shipment is entered, or withdrawn from warehouse, for consumption by a United States Government department or agency, or an authorized representative thereof. In such case a stipulation in the following form shall be furnished in lieu of any bond provided for in Part 25 of this chapter:

I, _____, _____, a duly au-
(Title)
thorized representative of the _____
(Name of United States Government department or agency)
stipulate and agree on behalf of such department or agency that all applicable provisions of the Tariff Act of 1930, as amended, and the regulations thereunder, and of all other laws and regulations, relating to _____ entry No. _____, of _____,
(Type of entry) (Date)
will be observed and complied with in all respects.

_____
(Signature)

After liquidation of the entry, the collector shall bill the proper department or agency on Standard Form 1080 for any duties or charges due the Government.

(Secs. 484, 505, 623, 46 Stat. 722, as amended, 732, 759, as amended; 19 U. S. C. 1484, 1505, 1623)

§ 8.29 Release of packages.

(a) Merchandise which has not been designated for examination shall be released from customs custody in accordance with the provisions of § 8.28.

(b) Merchandise designated for examination may be released after examination has been completed if it has been found to be truly and correctly invoiced, is entitled to admission into the commerce of the United States, and its release is not precluded by any law or regulation. The collector may designate an appraising officer to effect the release of examined packages. See § 8.28(b).

(c) If the examiner believes that the entered rate or value of any merchandise is too low, or if he finds that the quantity imported exceeds the entered quantity, and the estimated aggregate of the increase in duties in the shipment exceeds $15, he shall promptly notify the importer of record on every shipment on customs Form 5555, specifying the nature of the difference on the notice. The report of appraisement shall not be withheld unless in the judgment of the appraiser there are compelling reasons that would warrant such action.

(d) If either the nominal consignee (importer of record) or the actual owner whose declaration and superseding bond have been filed in accordance with § 8.18 (d) desires, he may estimate, on the basis of information contained in the entry papers or obtainable from the examiner, the probable amount of unpaid duties or taxes which will be found due on the entire shipment and deposit them in whole or in part with the collector. The deposit shall be tendered in writing by the importer of record or the actual owner in the following form in the number of copies required for the purposes of local administration.

Date _____

To the Collector of Customs.

_____

Tender is hereby voluntarily made of $_____ as a supplemental deposit of estimated duties and taxes on _____ entry No. _____, dated _____, in the name of _____. Please provide an official receipt.

_____
(Importer of record) or (Actual owner)
_____
(Street address)
_____ _____
(City) (State)

An official receipt shall be given for the deposit.

(Secs. 499, 505, 623, 46 Stat. 728, as amended, 732, 759, as amended; 19 U. S. C. 1499, 1505, 1623)

Entry for Warehouse

§ 8.30 Form and contents; articles entitled to entry.[33]

(a) Entry for warehousing shall be made in duplicate on customs Form 7502. The collector may require an extra copy or copies of customs Form 7502–A (Warehouse or Rewarehouse Permit) to be furnished for use in connection with the delivery of the merchandise to the bonded warehouse designated on the entry.

(b) The importer shall designate upon the entry the bonded warehouse in which he desires his merchandise deposited and the bonded cartman or lighterman by whom he wishes the goods transferred.

(c) Dangerous and highly inflammable merchandise, though not classified as explosive, shall not be entered for warehouse without the written consent of the insurance company insuring the warehouse in which the merchandise is to be stored.

(d) The procedure to be followed in connection with the preparation and filing of the entry, making notations on invoices, the preparation of customs Form 6417, the designation of examination packages, and the appraisement of the merchandise shall be the same as that prescribed for a consumption entry, except that, when packages which are not uniform in contents, quantities, values, or rates of duties or taxes are grouped together as one item on an entry, a specification sheet or sheets (original only) shall be furnished with the entry, listing separately opposite the identification mark or number of each package the quantity of each class of merchandise therein, the entered value of each class, and the rate or rates of duty or taxes claimed therefor, unless one withdrawal is to be filed for all the merchandise covered by the entry.

(e) A warehouse entry may be substituted for a consumption entry covering merchandise which has remained in continuous customs custody. In such a case, the superseded consumption entry shall be liquidated for refund of any estimated duties deposited without awaiting liquidation of the warehouse entry. All copies of the warehouse entry shall bear the following notation:

This entry is in substitution of consumption entry No. _____, dated _____, 19____.

(f) Conditionally free merchandise, the right of which to free entry has not been established because of the absence of required documents or other cause, may be entered for warehouse and be withdrawn under the appropriate provision of law within the 3-year warehousing period.

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

§ 8.31 Estimation of duties; bond.

(a) After the duty has been estimated upon the warehouse entry, the collector shall require a bond on customs Form 7555, or other appropriate form, unless there is on file a general term bond of the consignee.

(b) The bond having been executed, the goods, except such as may be designated for examination, shall be sent to the bonded warehouse.

(Secs. 557, 623, 46 Stat. 744, as amended, 759, as amended; 19 U.S.C. 1557, 1623)

§ 8.32 Liability of importers and sureties.

(a) The importer of goods entered for warehousing is liable for the payment of increased duties not only as principal on the warehouse entry bond but also by reason of his personal liability as consignee. Under the first condi-

---

until it has been inspected, examined, or appraised and is reported by the appraiser to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United States. * * *" (Tariff Act of 1930, sec. 499, as amended; 19 U. S. C. 1499)

[32] "The consignee shall deposit with the collector, at the time of making entry, unless the merchandise is entered for warehouse or transportation, or under bond, the amount of duty estimated to be payable thereon. * * *" (Tariff Act of 1930, sec. 505; 19 U. S. C. 1505)

[33] Any merchandise subject to duty, with the exception of perishable articles and explosive substances other than firecrackers, may be entered for warehousing and be deposited in a bonded warehouse at the expense and risk of the owner, importer, or consignee. * * * (Tariff Act of 1930, sec. 557(a), as amended; 19 U.S.C. 1557(a))

tion of the warehouse entry bond, the sureties on the bond shall be held liable for the payment of duties and customs charges not paid by the principal on the bond, whether such duties and charges are finally ascertained before the merchandise is withdrawn from customs custody or thereafter.

(b) Upon the transfer of the right to withdraw goods from a bonded warehouse, as provided for in section 557 (b), Tariff Act of 1930, as amended (see § 8.39), the transferor and his sureties shall be relieved from all undischarged liability for the payment of duties, taxes imposed upon or by reason of importation, charges, and exaction with respect to the merchandise the subject of the transfer, but shall remain bound by all other obligations of the bond filed by the transferor which are not assumed in the bond filed by the transferee.

(c) There shall be no abatement or allowance of duties on account of damage, loss, or deterioration of the merchandise while in warehouse, except as provided for by statute.

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

ENTRY FOR REWAREHOUSE

§ 8.33 Procedure.

(a) After arrival of the merchandise and receipt of the mail copy of the warehouse withdrawal for transportation, customs Form 7512, at the port of destination, the merchandise may be entered for rewarehouse by the consignee named in the withdrawal. The entry shall be on customs Form 7502 and shall be filed in duplicate. The collector may require an extra copy or copies of customs Form 7502–A (Warehouse or Rewarehouse Permit) to be furnished for use in connection with the delivery of the merchandise to the bonded warehouse designated on the entry. Separate shipments consigned to the same consignee and received under separate withdrawals for transportation shall not be combined in one rewarehouse entry unless the warehouse withdrawals are from the same original warehouse entry. If the merchandise is not entered before the expiration of 5 days after its arrival, it shall be sent to the general-order warehouse but shall not be sold or otherwise disposed of as unclaimed until the expiration of the original warehouse entry bond period.

(b) No declaration is required on entry. Any examination necessary for identification of the merchandise, determination of shortages, or other purposes shall be made.

(c) When a bond on customs Form 7555 or other appropriate form shall have been given, a permit may be issued on customs Form 7502–A for sending the merchandise to the bonded warehouse designated on the entry. No entry bond shall be required if the merchandise is entered by the consignee named in the original warehouse entry bond filed at the original port of entry or if it is entered by a transferee whose right to withdraw the merchandise has been established in accordance with § 8.39.

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

§ 8.34 Value and classification; protest.

(a) Except in the cases provided for in § 16.10(h) of this chapter, the duties determined at the port where the original warehouse entry was filed shall be the duties chargeable under the rewarehouse entry or entry for rewarehouse and withdrawal for consumption.

(b) A protest may be filed at the port of destination against a liquidation made at that port under § 16.10 (h) of this chapter or against the refusal of the collector at that port to liquidate pursuant to § 16.10 (h) of this chapter.

(Secs. 514, 557, 46 Stat. 734, 744, as amended; 19 U.S.C. 1514, 1557)

COMBINED ENTRY FOR REWAREHOUSE AND WITHDRAWAL FOR CONSUMPTION

§ 8.35 Form; procedure.

(a) If the consignee of merchandise withdrawn from warehouse for transportation desires to pay duty and obtain possession of the goods immediately on arrival at destination, a combined entry for rewarehouse and withdrawal for consumption shall be made on customs Form 7519 in quadruplicate, one copy to be used as the permit. An additional legible copy of Form 7519, marked or stamped "For Internal Revenue Purposes," shall be presented for each entry covering tobacco materials, tobacco products, cigarette papers and tubes when the release from customs custody under such combined entry and withdrawal is subject to Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275) and tax is payable to customs or if tobacco materials are to be released in accordance with § 11.2a(a) of this chapter.

(b) In such a case no rewarehouse entry bond shall be required if the merchandise is entered by the consignee named in the original warehouse entry bond filed at the port of original entry for warehousing, or by a transferee whose right to withdraw the merchandise has been established in accordance with § 8.39. Upon payment of the duties and any taxes in the amounts certified on the withdrawal for transportation to be payable, the collector shall issue a permit for release on customs Form 7519.

(c) No declaration is required on the combined entry. Any examination necessary for identification of the merchandise, determination of shortages, or other purposes shall be made.

(Secs. 484, 557, 46 Stat. 722, as amended, 744, as amended; 19 U.S.C. 1484, 1557)

EXPORTATION UNDER WAREHOUSE WITHDRAWAL FOR TRANSPORTATION

§ 8.36 Procedure.

A consignee of merchandise withdrawn from warehouse for transportation who desires to export the shipment on arrival at destination shall so advise the collector at destination in writing. The collector shall thereupon make a proper notation on the entry and manifest and permit the exportation of the merchandise under customs supervision. The subsequent procedure shall be the same as that prescribed for warehouse or rewarehouse withdrawals for transportation and exportation.

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

WITHDRAWAL AT ORIGINAL OR SECONDARY PORT FOR CONSUMPTION

§ 8.37 Withdrawal; form and contents.

(a) Withdrawals for consumption of merchandise in bonded warehouses shall be filed in triplicate on customs Form 7505 (in quadruplicate at the port of New York).[1] An additional legible copy of Form 7505, marked or stamped "For Internal Revenue Purposes," shall be presented for each withdrawal covering tobacco materials, tobacco products, cigarette papers and tubes when the release from customs custody under such withdrawal is subject to Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275), and tax is payable to customs or if tobacco materials are to be released in accordance with § 11.2a(a) of this chapter. No new declaration of the consignee or agent is required but if a nominal consignee has produced a valid owner's declaration in accordance with section 485(d), Tariff Act of 1930, the withdrawal shall be made only by the owner of the merchandise. The withdrawal shall show the number of the bond, the marks and numbers of the packages withdrawn, the carrier and date of importation, the description, quantity, rates of duty, separate value of each package, and total dutiable value of the merchandise, and shall be signed by the person making the withdrawal, except that in the case of merchandise in packages which are uniform in kind, quantity, value, and duty the number of each package to be withdrawn need not be shown on the withdrawal if the lowest and highest numbers in the number series of such packages are shown. In the case of stainless steel table flatware or articles manufactured from cotton, the description shall reflect any correction thereof reported after the filing of the warehouse entry. Additionally, on each withdrawal for consumption of tobacco materials, tobacco products, or cigarette papers and tubes subject to internal-revenue tax, the statement for tax purposes required by 26 CFR 275.81 as to any such article shall be made on the withdrawal form.

(b) Each withdrawal filed shall have indicated thereon, preferably in the top margin toward the right-hand corner, a summary statement of the account to which it is related. The statement shall indicate (1) the quantity (i. e., number of outer containers, or tons, etc.) in the warehouse account before the withdrawal, (2) the amount included on the particular withdrawal, and (3) the quantity remaining in warehouse after the withdrawal. The quantity in each instance aforementioned, although it may include a group of varied units, such

---

[1] "* * * Such merchandise may be withdrawn, at any time within three years from the date of importation, for consumption upon payment of the duties and charges accruing thereon at the rate of duty imposed by law upon such merchandise at the date of withdrawal; * * *." (Tariff Act of 1930, sec. 557, as amended; 19 U. S. C. 1557)

(b) If exported by other than the original importer, the same authority shall be required as in case of withdrawal for consumption. The exportation shall be made under the original marks of importation. Port marks may be added by authority of the collector and under the supervision of a customs officer. The original and the port marks shall appear in all customs papers pertaining to the exportation.

(c) Goods withdrawn for exportation but not laden shall be sent to general order unless other disposition is directed by the collector.

(d) Withdrawals for transportation and exportation may be converted to withdrawals for consumption upon request to the collector of customs at the port of origin.

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

§ 8.43 Weight, gauge, or measure.

(a) Merchandise in bulk and packaged articles which are customarily bought and sold by weight, gauge, or measure may be withdrawn for exportation or transportation only at the actual quantities ascertained at the time of original entry for warehouse, except as otherwise provided for by law.

(b) In any case the collector may require a special report of weight, gauge, or measure of the merchandise being exported if he deems it necessary.

(Secs. 557, 562, 46 Stat. 744, as amended, 745, as amended; 19 U.S.C. 1557, 1562)

§ 8.45 Parcel-post packages.

Merchandise in bonded warehouse may be withdrawn for exportation by mail in accordance with the provisions of § 9.11 of this chapter.

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

---

portation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island or the Island of Guam, without the payment of duties thereon * * *: *Provided*, That the total period of time for which such merchandise may remain in bonded warehouse shall not exceed three years from the date of importation * * *." (Tariff Act of 1930, sec. 557(a), as amended; 19 U.S.C. 1557(a))

ORES; CRUDE COPPER-BEARING MATERIALS; CRUDE METALS

§ 8.46 Entry and sampling of ores and crude metals not for smelting in bond.

(a) When ores or crude metals are entered for consumption or warehousing at the port of first arrival, they shall be sampled for assay and moisture purposes in accordance with commercial methods under the supervision of customs officers, as provided for in § 8.48. They shall be transported under bond to the place of sampling if proper sampling facilities are not available at the port of entry.

(b) The sampling and weighing of ores or crude metals at any place other than the port of entry shall be at the expense of the parties in interest.

§ 8.48 Sampling and assaying.

(a) In the calculation of the dutiable quantity of imported metal-bearing ores and other metal-bearing materials, the sample used for the moisture test shall be representative of the importation at the time the importation is weighed for customs purposes. The percentage of moisture shall be determined in accordance with commercial methods by the customs chemist or, if the merchandise is in a bonded smelting or refining warehouse, by the customs chemist or customs warehouse officer. The commercial settlement test for moisture may be used as the basis for duty assessment in appropriate cases. See paragraph (f) of this section.

(b) Representative commercial assay samples taken under customs supervision shall be selected by the customs officer for assay by the customs laboratory. When a shipment is made up of a number of lots a composite sample of the shipment shall be drawn for assay, provided composite sampling is feasible and assays of the individual lots are not required for tariff classification or other customs purpose. The composite sample shall consist of proportional parts by weight of the prepared sample drawn from the various lots represented and shall be thoroughly mixed.

(c) Where the procedure outlined in paragraphs (a) and (b) of this section cannot be followed, the importer shall be required to furnish a verified commercial moisture sample and prepared assay sample certified to be representative of the importation at the time the importation was weighed for customs purposes. The samples shall be in appropriate containers, properly labeled, and shall be accompanied by a statement including entry number, lots represented, kind of ore, date and place where sampling occurred, and the name and address of the sampling concern. The samples shall be forwarded promptly to the customs laboratory for analysis.

(d) Where no commercial samples have been taken, the customs officer shall take and send to the customs laboratory representative samples from different parts of the importation.

(e) A suitable place or container shall be provided for the safekeeping of all customs samples under Government lock or seal.

(f) Customs officers may secure from the importer a certified copy of the commercial settlement test for moisture. This result shall be transmitted with the commercial moisture sample to the customs laboratory where it shall be compared with the result shown by the customs moisture test. If the two results are not in substantial agreement, the chief chemist of the customs laboratory shall review his test. The import entries shall be liquidated on the basis of the result shown by the customs moisture test, except that the settlement moisture test shall be the basis of duty assessment if, in the opinion of the chief chemist, the settlement and customs tests differ with respect to the percentage of moisture contained in the importation at the time of weighing by no more than is to be expected between qualified laboratories and provided further that the use of such commercial moisture test will not require a different tariff classification or rate of duty than is indicated by the customs test.

(g) Customs officers may secure from the importer a certified copy of the commercial settlement assay results which shall be transmitted with the commercial sample to the customs laboratory, where it shall be compared with the results shown by the customs assay. If the two results are not in substantial agreement, the chief chemist of the customs laboratory shall review his assay. The import entries shall be liquidated on the basis of the results shown by the customs assay, except that the settlement assay shall be the basis of duty assessment if, in the opinion of the chief chemist, the settlement and customs assays differ with respect to the percentage of dutiable metal content by no more than is to be expected between qualified laboratories and provided further that the use of such commercial assay will not require a different tariff classification or rate of duty than is indicated by the customs assay.

(h) When absolute deductions for losses on the copper, lead, or zinc content of the metal-bearing ores and other metal-bearing materials are to be claimed, the collector, in the liquidation of the entry, shall make the deductions authorized in headnote 4, part 1, schedule 6, Tariff Schedules of the United States, according to the type of plant where the materials are to be initially treated, provided the importer, at the time the entry for consumption or warehouse is filed, makes claim therefor in writing and certifies as to the name, location and status of the plant at which the materials are to be initially treated. No claim for losses not so filed shall be allowed. The type of plant where the material is to be initially treated may be certified on the entry.

(Sec. 312, 46 Stat. 694, as amended, sec. 101, 76 Stat. 72; 19 U.S.C. 1312; Sch. 6, pt. 1, hdnote 4, Tariff Schedules of the United States)

ENTRY FOR EXPORTATION, ENTRY BY APPRAISEMENT, INFORMAL ENTRIES, AND PACKED PACKAGES

§ 8.49 Entry for exportation; exportation of rejected merchandise.

(a) Merchandise in customs custody for which entry has not been completed and merchandise which has remained in continuous customs custody and is covered by an unliquidated consumption entry may be exported under the procedure outlined in §§ 18.25–18.27 of this chapter with refund of any estimated duties paid.

(b) If merchandise has been regularly entered or withdrawn for consumption in good faith and is thereafter found to be prohibited entry under any law of the United States, it may be exported under customs supervision in accordance with §§ 18.25 and 18.26 of this chapter with refund of any duties that have been paid.[2] (See § 15.5 of this chapter.)

---

[2] "(a) No remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed because of the exportation

sample certified to be representative of

in the opinion of the chief chemist, the

shall be allowed because of the exportation

as boxes, cases, or cartons, and may consist of more than one commodity, such as distilled spirits, chinaware, etc., may be shown as a cumulative total. When all or a portion of an original lot is transferred to a new owner, withdrawals by the transferee shall show only the quantity transferred, the quantity withdrawn by the transferee, and the transferred quantity remaining in warehouse. In such case, the quantity retained by the original importer and the quantity transferred shall be treated as separate accounts. (See § 8.39.)

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

§ 8.38 Withdrawal; when completed.

When the duties and other charges have been paid, a permit on customs Form 7505–A shall be issued and delivered to the person making the warehouse withdrawal. When the permit is presented to the customs warehouse officer, he shall release the merchandise to or upon the order of the proprietor of the warehouse in accordance with § 19.6 of this chapter, unless the person making the withdrawal requests, by endorsement on the permit, that release be withheld subject to the provisions of § 20.3(c) of this chapter until he shall have presented to the customs warehouse officer an order to release on customs Form 7505–B. If partial release is desired, the order may cover only part of the merchandise specified in the permit, but not less than an entire package, or, if in bulk, 1 ton in weight. Proprietors may be permitted to make copies of permits and orders to release.

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

§ 8.39 Withdrawal by transferee.

(a) Except as provided for in paragraph (c) of this section or in § 10.60(b) or 18.16(a) of this chapter, a transfer of the right to withdraw merchandise entered for warehousing[35] shall be established by an endorsement made in the space provided therefor on customs Form 7505, authorizing the withdrawal by a designated transferee, and the deposit of the endorsed document, properly executed in all respects, together with a bond of the designated transferee on customs Form 7555 or other appropriate form, with the customs officer designated to receive such document and bond. Such endorsement shall be made by the person primarily liable, immediately before the endorsed document is so deposited, for duties on the merchandise the subject of the transfer, i. e., the person who made the warehouse or rewarehouse entry or a transferee of the withdrawal right of such a person. The transferee's bond shall include an obligation to pay, with respect to the merchandise the subject of the transfer, all unpaid regular, increased, and additional duties, all unpaid taxes imposed upon or by reason of importation, and all unpaid charges and exactions.

(b) The endorsed Form 7505 and transferee's bond may be deposited by either the transferor or the transferee.

(c) If the transferor desires to do so, he may endorse Form 7505 to authorize the right to withdraw the merchandise specified thereon but leave the space for the name of the transferee blank. A holder of a Form 7505 so endorsed and otherwise fully executed may insert his own name in the blank space in the endorsement, deposit such form with his transferee's bond in the customhouse, and thereby establish his right to withdraw the merchandise.

(d) At any time within the warehousing period after compliance with paragraph (a) or (c) of this section, or concurrently with such compliance, a transferee may withdraw all or any part of the merchandise covered by the transfer by filing any authorized kind of withdrawal from warehouse in proper form and otherwise complying with the law and regulations pertinent to the kind of withdrawal filed. Each withdrawal of any type filed by the transferee shall contain a summary statement thereon indicating the quantity on hand in the transferee's name before the withdrawal, the amount withdrawn on the particular withdrawal, and the quantity remaining in the warehouse to the credit of the transferee, if any. (See § 8.37.)

(e) The right of a transferee to withdraw the merchandise may not be revoked by the transferor, but may be retransferred by the transferee.

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

§ 8.40 Withdrawals before and after liquidation.

(a) Merchandise may be withdrawn for consumption before liquidation of the warehouse entry upon payment of the estimated duties, and after liquidation upon payment of the liquidated duties.

(b) If there is a difference of $3 or more between the total estimated duties deposited and the total liquidated duties accruing on merchandise withdrawn for consumption before the liquidation or reliquidation of the warehouse entry, a notice shall be issued promptly on customs Form 5107 or customs Form 5269, as the case may be, and such difference shall be collected or refunded.

(c) In the computation of duty on a warehouse withdrawal, ad valorem rates shall be applied to the value in even dollars, fractional parts of a dollar less than 50 cents being disregarded and 50 cents or more being considered as $1. If the rate of duty upon the goods withdrawn is specific and $1 or less per unit, fractional quantities of less than one-half shall be disregarded, and one-half or more shall be treated as a whole unit. If the specific rate is more than $1 per unit, duty shall be assessed upon the exact quantity and the fractional part thereof, if any, expressed in the form of a decimal extended to two places. Any necessary adjustment shall be made on the final withdrawal by increasing or decreasing the amount to be collected to bring the aggregate payments into balance with the amount due as indicated by the liquidation of the warehouse or rewarehouse entry.

(Secs. 557, 562, 46 Stat. 744, as amended, 745, as amended; 19 U.S.C. 1557, 1562)

WITHDRAWAL AT ORIGINAL OR SECONDARY PORT FOR EXPORTATION

§ 8.41 Form and contents; goods not laden.

(a) Merchandise may be withdrawn from warehouse at original and secondary ports for exportation in accordance with § 18.19 of this chapter.[36]

---

[35] "(b) The right to withdraw any merchandise entered in accordance with subsection (a) of this section for the purposes specified in such subsection may be transferred upon compliance with regulations prescribed by the Secretary of the Treasury and upon the filing by the transferee of a bond in such amount and containing such conditions as the Secretary of the Treasury shall prescribe. The bond shall include an obligation to pay, with respect to the merchandise the subject of the transfer, all unpaid regular, increased, and additional duties, all unpaid taxes imposed upon or by reason of importation, and all unpaid charges and exactions. Such transfers shall be irrevocable, shall relieve the transferor from all customs liability with respect to obligations assumed by the transferee under the bond herein provided for, and shall confer upon the transferee all rights to the privileges provided for in this section and in sections 562 and 563 of this Act which were vested in the transferor prior to the transfer. The transferee shall also have the right to receive all lawful refunds of moneys paid by him to the United States with respect to the merchandise the subject of the transfer, but shall have no right to file any protest under section 514 of this Act except as to decisions with respect to his rights under subsection (c) of this section or under section 562 or 563 of this Act or against a decision as to the rate or amount of duty, tax, charge, or exaction when such rate or amount has been changed by statute or proclamation on or after the date of the transfer. The transferee shall have no right to file an appeal for reappraisement under section 501 of this Act, except when subsequent to the transfer and before a withdrawal for consumption has been deposited for the merchandise, it has been changed in condition pursuant to the provisions of section 562 or 311 of this Act in a manner which necessitates that it be appraised in its changed condition in order that the correct amount of duties may be assessed. No new or separate liquidation, reliquidation, or determination shall be made in the name of, or on behalf of, a transferee, except with regard to any matter which may arise under subsection (c) of this section or section 562 or 563 of this Act when the transferee has invoked either of these sections, and in the case of a statuory or proclaimed change in the rate of duty, tax, charge, or exaction applicable to the merchandise the subject of the transfer and effective on or after the date of the transfer. A transferee may further transfer the right to withdraw merchandise, subject to the provisions of this subsection relating to original transfers." (Tariff Act of 1930, sec. 557 (b), as amended; 19 U. S. C. 1557 (b))

Section 21 (b), Customs Simplification Act of 1953 (67 Stat. 520), provides that the above-quoted provisions of section 557 (b), Tariff Act of 1930, shall be effective with respect to merchandise entered after August 8, 1953, and to merchandise which was entered before that date and is the subject of a transfer within the purview of the amended section 557 (b) and made after August 8, 1953.

[36] "Any merchandise subject to duty, with the exception of perishable articles and explosive substances other than firecrackers, may be entered for warehousing and be deposited in a bonded warehouse at the expense and risk of the owner, importer, or consignee. Such merchandise may be withdrawn, at any time within three years from the date of importation. * * * for ex-

(c) When merchandise to be exported from continuous customs custody is covered by a liquidated consumption entry under which duties have been assessed, the drawback procedure prescribed in §§ 22.27–22.30 of this chapter shall be followed.

(Sec. 558, 46 Stat. 744, as amended; 19 U.S.C. 1558)

§ 8.50 Entry by appraisement.

(a) Application for an entry by appraisement shall be made in triplicate on customs Form 7500.

(b) An application for an entry by appraisement may be approved by the collector without securing the approval of the Commissioner's office for articles described in section 498 (a), (2), (3), (4), (5), (7), or (8), Tariff Act of 1930.[38] As the value of articles of the following descriptions cannot be declared, an application for an entry by appraisement for any such articles pursuant to section 498 (a) (10),[39] Tariff Act of 1930, may be approved by the collector without the approval of the Commissioner's office:

(1) Articles which are second-hand;

(2) Articles which have become deteriorated or damaged before importation otherwise than as specified in section 498 (a) (2);

(3) Articles which are not the subject of a commercial transaction; and

(4) So-called overages or dock accumulations which cannot be identified with any particular shipment.

Entry by appraisement for articles not provided for above shall be allowed only with the approval of the Commissioner's office. Each request for such approval shall be filed in triplicate with the collector and shall state in detail the reasons for the request for entry by appraisement.

(c) An application for an entry by appraisement shall not be approved after the merchandise has been appraised or released from customs custody, nor for damaged merchandise when the damage occurs after importation.

(d) The consignee or owner shall in all cases furnish any bills or statements of cost relating to the articles which may be in his possession and a declaration that he has no other information as to the value of the articles and is unable to obtain such information or to determine the value of the articles for the purpose of making formal entry thereof.

(e) After submission, if acceptable, the application, together with any bills or statements relating to the cost or value of the merchandise, shall be forwarded to the appraiser, who shall report the result of his appraisement and his advisory classification of the merchandise thereon and return it with its attachments to the collector. Duties shall be assessed in accordance with the values reported by the appraiser; but the importer may substitute an entry for warehouse at any time within 1 year from the date of importation, provided the merchandise has remained in continuous customs custody.

(f) Any additional expense for cartage, storage, or labor occasioned by reason of an entry by appraisement shall be borne by the importer.

(Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

ENTRY FOR EXPORTATION, ENTRY BY APPRAISEMENT, INFORMAL ENTRIES, AND PACKED PACKAGES

§ 8.51 Informal entries.[40]

(a) Merchandise not exceeding $250 in value, unless falling within the provisions of § 8.50, may be entered on a customs Form 5119 or 5119–A. The nonserially numbered customs Form 5119 or 5119–A may be prepared by importers or their agents or by customs officers when it can be presented to a customs cashier or acting cashier for payment of duties and taxes and for numbering of the entry before the merchandise is examined by a customs officer. Where there is no customs cashier or acting cashier serially numbered forms must be used, and they will be prepared by a customs officer unless such forms can be prepared under his control by the importers or their agents for immediate use in clearing merchandise under the informal entry procedure. The conditions for the preparation of nonserially-numbered customs Form 5119 or 5119–A by importers or their agents, described above, do not apply to the acceptance of these entries for shipments not exceeding $250 in value released under an immediate delivery permit in accordance with § 8.59. Each informal entry shall contain an adequate description of the merchandise and the number of the paragraph under which the merchandise is classified. An additional copy of the entry form, marked or stamped "For Internal Revenue Purposes," shall be prepared for each entry covering tobacco materials, tobacco products, cigarette papers and tubes when the entry of those articles is subject to Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275) and tax is payable to customs upon release of such articles or if tobacco materials are to be released in accordance with § 11.2a(a) of this chapter; and on each such entry on which tax is payable to customs the separate statement for tax purposes required by 26 CFR 275.81 shall be made on the entry form; but no such extra copy or separate statement is required for tobacco products imported solely for the personal consumption of the importer or for disposition as his bona fide gift. This form may also be used for the entry of household or personal effects or tools of trade entitled to free entry under schedule 8, part 2A, Tariff Schedules of the United States, but any such articles imported in the baggage of their owner shall ordinarily be included in his baggage declaration. This form may also be used for the entry of (1) books or other articles imported by a society, institution, school, or library and classifiable under item 850.10 or 851.10, Tariff Schedules of the United States; (2) effects not exceeding $250 in value of citizens of the United States dying abroad; and (3) household and personal effects as described in section 498(a)(4) of the Tariff Act of 1930, as amended, when entered under item 806.20, Tariff Schedules of the United States, and the value of the repairs or alterations thereto does not exceed $250. An informal entry may be prepared for any installment, not exceeding $250 in value, of a shipment arriving at different times and in such case need

---

or destruction of any merchandise after its release from the custody of the Government, except in the following cases:

* * * * *

"(2) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to a law of the United States and under such regulations as the Secretary of the Treasury may prescribe: * * *." (Tariff Act of 1930, sec. 558 (a), as amended; 19 U. S. C. 1558 (a))

[38] "(a) *Authorized for certain merchandise.* The Secretary of the Treasury is authorized to prescribe the rules and regulations for the declaration and entry of—

* * * * *

"(2) Merchandise damaged on the voyage of importation, by fire or through marine casualty or any other cause, without fault on the part of the shipper;

"(3) Merchandise recovered from a wrecked or stranded vessel;

"(4) Household effects used abroad and personnel effects, not imported in pursuance of a purchase or agreement for purchase and not intended for sale;

"(5) Articles sent by persons in foreign countries as gifts to persons in the United States;

* * * * *

"(7) Tools of trade of a person arriving in the United States;

"(8) Personal effects of citizens of the United States who have died in a foreign country;

* * * * *

"(10) Merchandise in the opinion of the Secretary of the Treasury the value thereof cannot be declared; * * *

* * * * *

"(b) *Application of general provisions.* The Secretary of the Treasury is authorized to include in such rules and regulations any of the provisions of section 484 or 485 of this Act, (relating, respectively, to entry and to declaration of merchandise generally)." (Tariff Act of 1930, sec. 498; 19 U. S. C. 1498)

[40] "(a) * * * The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of—

"(1) Merchandise, imported in the mails or otherwise, when the aggregate value of the shipment does not exceed such amount, not greater than $250, as the Secretary of the Treasury shall specify in the regulations, and the specified amount may vary for different classes or kinds of merchandise or different classes of transactions;

* * * * *

"(4) Household effects used abroad and personal effects, not imported in pursuance of a purchase or agreement for purchase and not intended for sale;

* * * * *

"(7) Tools of trade of a person arriving in the United States;

* * * * *

"(11) Merchandise within the provisions of paragraph 1631 of this Act.

"(b) * * * The Secretary of the Treasury is authorized to include in such rules and regulations any of the provisions of section 484 or 485 of this Act (relating, respectively, to entry and to declaration of merchandise generally)." (Tariff Act of 1930, sec. 498, as amended; 19 U.S.C. 1498)

not be considered in connection with invoice requirements for the balance of the series or otherwise as an installment shipment within the purview of § 8.12.

(b) The estimated duties and taxes, if any, shall be deposited at the time the entry is presented and accepted by a customs officer, whether at the customhouse or elsewhere. If upon examination of the merchandise further duties or taxes are found due, they shall be deposited before release of the goods by customs. When the entry is presented elsewhere than where the merchandise is examined, the permit copy shall be delivered through proper channels to the customs officer who will examine the merchandise.

(c) The collector may, when he deems it necessary for the protection of the revenue, require a formal entry, customs Form 7501, for any such merchandise. Individual shipments for the same consignee, when such shipments are valued at $250 or less, may be consolidated on customs Form 7501.

(d) No special customs invoice is required but, in the case of merchandise imported pursuant to a purchase or agreement to purchase or intended for sale, the consignee shall produce the commercial invoice covering the transaction or, in the absence thereof, an itemized statement of value.

(e) The collector may, in his discretion, require any merchandise entered in accordance with this section to be regularly examined and appraised.

(Sec. 498(a), 46 Stat. 728, as amended; 19 U.S.C. 1498(a))

§ 8.51a Entry of certain shipments of unconditionally or conditionally free merchandise.

A shipment not exceeding $250 in value which is (a) unconditionally free of duty and not subject to any quota or internal-revenue tax, or (b) conditionally free and all conditions for free entry are met at the time of entry, may be released upon examination and identification by a customs officer and the filing by the importer of customs Form 7523, in duplicate, supported by evidence of the right to make entry; *Provided*, That this procedure shall not be followed in the case of American goods returned for the entry of which customs Form 3311 has been prescribed by § 10.1, returning residents' purchases for the clearance of which customs Form 3351 or 3419 has been prescribed by §§ 9.10 and 10.20 of this chapter, or effects and tools of trade released under customs Form 3297 or 3299 without other entry in accordance with § 10.20 of this chapter.

(Sec. 498(a), 46 Stat. 728, as amended; 19 U.S.C. 1498(a))

§ 8.52 Packed packages; marking; entry; when entry not required.

(a) Packed packages, which may be separately entered under the provisions of section 484(f), Tariff Act of 1930, as amended,[2] and § 8.8 (f), shall be marked to indicate that they are packed packages.

(b) Entire packed packages, or one or more of the enclosures thereof, may be entered on any form of formal or informal entry applicable thereto. No entry is required for parcels contained in packed packages where the individual parcel contains merchandise unconditionally free of duty and not exceeding $250 in value.

(Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484)

Landing and Delivery of Articles for Which Immediate Delivery Is Necessary

§ 8.59 Application; entry; procedure.

(a) "Articles, the immediate delivery of which is necessary," for which special permits for delivery are authorized by section 448 (b), Tariff Act of 1930,[4] shall be construed to include, in addition to perishable articles, any other articles in connection with which it is definitely established that delay in securing release would occasion unusual loss or inconvenience to the importer or to the carrier bringing the merchandise to the port. The term "formal entry" in the said section 448 (b) means the process of making entry and does not specify a kind of entry.

(b) Special permits for the delivery of articles of a class referred to in paragraph (a) of this section prior to entry shall be granted only in cases where the collector of customs shall be satisfied that such delivery can be permitted with safety to the revenue.

(c) Applications for special permits for the delivery of imported articles prior to entry therefor shall be made in duplicate on customs Form 3461 and shall be supported by evidence satisfactory to the collector of the right of the applicant to make entry for the articles with respect to which the application is filed. Designations and orders for examination of merchandise to be released under immediate delivery permits may be made before the arrival of the merchandise by the collector, the assistant collector, a deputy collector, or a customs officer officially acting as one of the foregoing. Such designations and orders shall be made in the space provided therefor on the special permit, customs Form 3461, when possible, and the designations may be by minimum percentages of packages or quantities which shall be examined, unless the collector shall be of the opinion that the proper protection of the revenue requires packages to be otherwise designated for examination. Information as to particular packages designated for examination, when less than the total number of packages in the shipment, shall not be given or be accessible to anyone, other than the customs officers necessarily concerned prior to the arrival of the merchandise within the limits of the port. If the collector is satisfied that the conditions warrant such action, a special permit may be granted to cover the delivery prior to entry of a class or classes of articles particularly described in the application for such permit and imported during a period not to exceed 1 year. In such case the fact of release of the merchandise, together with such supplemental information as may be necessary to identify the shipment and determine its quantity and value, shall be noted on the manifest and initialed by the customs officer who releases the merchandise.

(d) No permit for the delivery of imported articles prior to entry being made therefor shall be issued until there has been filed in connection with the application for such delivery a single entry bond on customs Form 7551, with approved corporate surety; or a term bond on customs Form 7553, with approved corporate surety (see § 25.4 (a) (9) and (10) of this chapter as to amounts of such bonds). When the transaction involves articles of a kind which is subject to a tariff-rate quota and such articles are released at a time when the pertinent quota is filled, the full rate or rates shall be used in computing the estimated duties and taxes for the purpose of determining the amount of the single-entry bond. The term bond may be filed in connection with a single application to cover several importations during a period of not more than 1 year, or in connection with several applications to be filed during a period of not more than 1 year. A general term bond on customs Form 7595 is also applicable to the landing and delivery of articles for which immediate delivery is necessary.

(e) If there is available sufficient information as to the quantities and values of the merchandise for a proper estimation of the duties and any taxes which will be payable, there may be deposited with the application for a special permit all the papers, including an entry bond, in proper form for making entry for consumption in accordance with § 8.4 (d), but no deposit of duties or taxes shall be permitted for the shipment until such time as entry could be made therefor in accordance with § 8.4.

(f) In the case of articles of a class referred to in paragraph (a) of this section, arriving from Canada or Mexico when the customhouse is closed and destined to places other than the port of arrival, the application and the evidence of the right to make entry may be submitted to the chief customs officer on duty and a special permit may be issued for their release, provided the person making application has on file in the customhouse a special term bond as described in paragraph (d) of this section.

(g) Except as otherwise prescribed in this chapter, entry shall be made including deposit of estimated duties and taxes, within 2 days after the day on which the articles are released under a special permit. When the importer or his agent furnishes in writing a satisfactory explanation of his inability to make entry and deposit within 2 days after the day

---

[2] "* * * One or more packages arriving on one vessel or vehicle addressed for delivery to one person and imported in another package containing packages addressed for delivery to other persons may be separately entered, under such rules and regulations as the Secretary of the Treasury may prescribe. * * *." (Tariff Act of 1930, sec. 484 (f), as amended; 19 U. S. C. 1484 (f))

[4] "The Secretary of the Treasury is authorized to provide by regulations for the issuing of special permits for delivery, prior to formal entry therefor, of perishable articles and other articles, the immediate delivery of which is necessary." (Tariff Act of 1930, sec. 448 (b); 19 U. S. C. 1448 (b))

of release, the collector may extend the period for not to exceed 2 additional days. In computing the period within which entry and deposit must be made, including any authorized extension, the day of release, Saturday, Sunday, and holiday shall be excluded. Notwithstanding the foregoing, the time within which entries (including deposit of estimated duties and taxes) shall be filed covering articles of a kind which is subject to a tariff-rate quota which are released under a special permit at a time when the pertinent quota is filled shall expire in any event not later than midnight on the last day before the applicable quota again opens and no extension beyond such midnight shall be granted. Each formal consumption entry, except where the collector has approved the use of a consolidated report on the summary sheet (customs Form 6417) in lieu of the reports on customs Form 7501–A, or informal entry for merchandise released under a term immediate delivery permit shall be accompanied by an entry permit on customs Form 7501–A, 5119, or 5119–A, as applicable, for execution by customs officers on the permit of the reports of action. Such consolidated report, which may be printed or rubber stamped in the space on the summary sheet normally used to designate examination packages, shall read substantially as follows:

I certify that the merchandise covered by this entry has been (1) examined or sampled, (2) weighed, gauged, or measured or stamped as directed, or invoiced ☐ or entered ☐ quantities accepted (check one box, if applicable) and (3) released under immediate delivery permit No. _____ on _____ (Date) and that it was in apparent good order, except as noted below:

If no exceptions, note ("None")

(Inspector-Acting Examiner)

Unless needed by customs for noting the entry number on the manifest, no entry permit on customs Form 7501–A, 5119, or 5119–A is required to accompany an entry for merchandise released under an immediate delivery permit (customs Form 3461) for a single importation. Upon request, the local collector of customs will advise whether an entry permit is required. Where merchandise to be released on an immediate delivery permit is examined and notations as to value and classification are made on an invoice which is then filed by the importer as part of the entry, the collector may extend the period for filing entry and depositing duties for not to exceed 4 additional days, allowing 6 days in all, but the limitations set forth above on merchandise subject to quota will be observed. This privilege may be granted for individual entries or for special permits granted for a period not to exceed 1 year.

(h) Entry under paragraph (g) of this section shall not be required for prohibited articles (1) which are exported or destroyed within the period for entry specified in paragraph (g) of this section, or (2) for which entry for exportation or application to destroy is made during such period provided such prohibited articles are promptly exported or destroyed. The conditions governing the exportation or destruction of prohibited articles covered by entries for consumption with remission or refund of duty under section 558 (a) (2) of the Tariff Act of 1930, as amended, and the regulations thereunder shall apply to such exportation or destruction. Direct export or transportation and exportation entries made for prohibited articles for which no formal or informal entry for consumption is filed shall have conspicuously stamped or imprinted thereon the legend: Prohibited Merchandise; No Other Entry Filed.

(i) If entry, when required, is not timely made the collector shall make an immediate demand for liquidated damages in the entire amount of the bond in the case of a single-entry bond. When the transaction has been charged against a term bond, the demand shall be for the amount that would have been demanded if the merchandise had been released under a single immediate delivery and consumption entry bond. Unless prompt action is taken looking to the settlement of the claim, the collector shall discontinue allowing immediate delivery of articles imported by or for the account of the person in default.

(j) When liquidated damages have been assessed for failure to file a timely entry for merchandise not subject to a quota which has been released under a special permit and the importer files an application for relief, the collector may cancel such liquidated damages upon the payment of $10, if he is satisfied that the delay in filing the entry was not due to willful negligence and was occasioned by circumstances reasonably beyond the control of the parties.

(k) Except in the case of articles entered in accordance with § 8.51, the collector shall give timely notice of the arrival of the vessel or vehicle to the appraiser, who shall promptly detail an officer to examine the merchandise, except that when the vessel or vehicle arrives at night or on a Sunday or holiday, and the articles consist of fruits, vegetables, or other merchandise which it is practicable to appraise by means of samples, the discharging inspector shall take samples in such manner and in such quantities as the appraiser may direct and retain them for examination on the next business day. The discharging inspector shall not release the merchandise to the carrier until it has been examined or adequate samples have been taken when appraisement is to be made by sample. Examination and release of merchandise under the special delivery provisions of this section shall not be made unless there is first furnished to the examining officer an invoice, waybill, or other satisfactory document setting forth an adequate description of the merchandise and the quantities thereof, together with the values or approximate values thereof when the latter information is needed in connection with the examination. If an annual special delivery permit is involved, the invoice, or other document so presented to the examining officer shall also have shown thereon, when possible, the special delivery permit number, to facilitate the identification of the importation with the permit.

(l) In all other respects the procedure shall be the same as in the case of other imported merchandise.

(Secs. 448, 484, 558, 46 Stat. 714, 722, as amended, 744 as amended; 19 U.S.C. 1448, 1484, 1558)

and classification are made on an invoice delay in filing the entry was not due to

PART 9—IMPORTATIONS BY MAIL

Sec.
9.1 Customs declarations and invoices.
9.2 Treatment of mail importations at offices of first receipt and at offices of examination.
9.3 Mail entries.
9.4 Formal entry of mail importations.
9.5 Sealed mail parcels to bear label or endorsement.
9.6 Importations not over $1 in value; gifts.
9.7 Parcels for the United States Government; merchandise in diplomatic pouches; parcels marked for copyright; books, engravings, etc., for the United States.
9.8 Cigars, cigarettes, and manufactured tobacco; playing cards, etc.
9.9 Merchandise conditionally free.
9.10 Dissatisfied addressees; delivery under a resident's $200 or $300 exemption; undelivered dutiable parcels.
9.11 Exportation by mail; plant material.
9.12 Prohibited and restricted mail importations; seizure under the customs laws.
9.13 Communist political propaganda.

AUTHORITY: §§ 9.1 to 9.12 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 9.1 Customs declarations and invoices.

(a) A customs declaration on the form provided by the foreign mailing office, giving an accurate description and the value of the contents, shall be securely attached to at least one package of each parcel-post shipment. Each commercial shipment by parcel post shall also be accompanied by a commercial invoice. In case the shipment consists of more than one package, the invoice shall be placed in the package to which the postal form of customs declaration is attached, and such package shall be marked "Invoice enclosed." There shall be enclosed with the contents of every mail parcel containing merchandise dispatched otherwise than by parcel post an invoice in the case of commercial shipments, or a statement of value in the case of merchandise not purchased nor consigned for sale, giving an accurate description and the value of the merchandise. If it is impracticable to enclose the invoice or statement, it shall be securely attached to the outside of the parcel.

(b) When the aggregate value of a mail shipment exceeds $500, the accompanying invoice is subject to the same requirements as invoices covering similar shipments imported otherwise than in the mails. When a special customs invoice accompanies a mail shipment, no other invoice or statement of value is required.

(Secs. 481, 482, 485, 498, 46 Stat. 719, 720, as amended, 724, as amended; 728, as amended; 19 U.S.C. 1481, 1482, 1485, 1498)

CROSS REFERENCE: For exception to the requirements of this section with regard to customs invoices in the shipment of bona fide gifts under Public Law No. 790 (50 U. S. C. App. 846, 847), see § 54.3 (e) of this chapter.

§ 9.2 Treatment of mail importations at offices of first receipt and at offices of examination.

(a) Parcels of all classes of mail believed to contain articles liable to customs duty received at post offices other than New York, Chicago, San Francisco, or Seattle,[2] and such parcels received at exchange post offices at the four ports mentioned for delivery within their respective distribution districts as shown in the special distribution scheme,[3] shall be given customs treatment at the ports where received.

(b) All parcels, including those subject to formal entry, for delivery at points outside the distribution districts of the four exchange post offices named in paragraph (a) of this section, and received at such offices, shall be left in the custody of the postmaster, without customs examination, for redispatch to other distributing post offices in accordance with the special distribution scheme. Upon receipt at the distributing post offices, the dispatches shall be opened in the presence of customs officers and the mail given customs treatment.

§ 9.3 Mail entries.

(a) In the case of importation in the mails not exceeding $250 in value, customs officers shall prepare and attach the proper entry form and return the shipment to the postal authorities for delivery and collection of duty.[4]

(b) No mail or other entry shall be issued for any shipment in the mails which is: (1) Unconditionally free of duty and does not exceed $250 in value; or (2) accompanied by a properly completed customs Form 3351, Release for Unaccompanied Tourist Shipment. In the case of articles which are unquestionably the growth, produce, or manufacture of the United States, and which have not been advanced in value or improved in condition, if the collector is satisfied from the character thereof or otherwise that they are free of duty under item 800.00, Tariff Schedules of the United States, and if the total value of the articles of American origin contained in the shipment does not exceed $250, no mail or other entry shall be issued and no declaration of the owner, importer, or agent on customs Form 3311 shall be required.

(c) Books or other articles imported in the mails by a society, institution, school, or library and classifiable under item 850.10 or item 851.10 Tariff Schedules of the United States may be cleared through customs under an informal mail entry, regardless of value.

(d) The rate or rates of duty applicable to any article released under an informal mail entry (customs Form 3419, or 5119) shall be the rate or rates in effect when the preparation of such entry is completed by a customs employee for transmittal with the article to the addressee.[4a]

(Secs. 315, 498(a), 46 Stat. 695, as amended, 728, as amended; 19 U.S.C. 1315, 1498(a))

§ 9.4 Formal entry of mail importations.

Formal entry at the customhouse shall be required for every importation in the mails which exceeds $250 in value, except as provided for in § 9.3 (c) or § 10.20(b)(4) of this chapter. When a mail shipment is examined and found to be subject to formal entry, the addressee or consignee shall be notified on customs Form 3509 of the arrival of the shipment and of the port at which entry is to be made. When a shipment is addressed to a point which is not a customs port or station, the port of entry specified in the notice shall be the port nearest the office of destination of the shipment. Single shipments not exceeding $250 in value, if mailed abroad at different times (as shown by the declaration or other mailing indicia), shall not be combined for the purpose of requiring formal customs entry, even though they reach customs at the same or approximately the same time, unless there was a splitting of shipments in order to avoid the payment of the lawful customs duty. The collector may require formal entry of mail shipments regardless of value, if in his opinion such entry is necessary to protect the revenue.

(Sec. 484, 46 Stat. 722, as amended; 19 U. S. C. 1484)

§ 9.5 Sealed mail parcels to bear label or endorsement.

(a) The importation of merchandise in sealed parcels (other than parcel post) shall be permitted if the sealed letter or other sealed parcel bears on the address side thereof the label, Form C 1, provided for by the Universal Postal Convention or the endorsement "May be opened for customs purposes before delivery to the addressee," or words of similar purport definitely waiving the privacy of the seal and indicating that the parcel may be opened by customs officers without recourse to the addressee.[5]

(b) When a sealed envelope or other parcel (other than parcel post) believed to contain merchandise is not endorsed or labeled as required, the postmaster

---

[2] Dutiable packages addressed to persons on commercial vessels in harbor bound for a foreign port are subject to duty unless remailed to a foreign destination or otherwise exported under customs supervision. (T. D. 38287 (3))

[3] Copies of the special distribution scheme will be furnished to collectors of customs and will be available for inspection by the public at the collectors' offices.

[4] "• • • The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of—

"(1) Merchandise, imported in the mails or otherwise, when the aggregate value of the shipment does not exceed such amount, not greater than $250, as the Secretary of the Treasury shall specify in the regulations, and the specified amount may vary for different classes or kinds of merchandise or different classes of transactions;

• • • • •

"(11) Merchandise within the provisions of paragraph 1631 of this Act." (Tariff Act of 1930, sec. 498 (a), as amended; 19 U. S. C. 1498 (a))

[4a] "(a) • • • (1) any article released under an informal mail entry shall be subject to duty at the rate or rates in effect when the preparation of the entry is completed; • • •." (Tariff Act of 1930, sec. 315 (a) (1), as amended; 19 U. S. C. 1315 (a) (1))

[5] Parcels imported under the provisions of the parcel-post conventions between the United States and foreign countries need not be labeled or endorsed since under the terms of these conventions such parcels, if sealed, may be opened by customs officers, immediately upon receipt and resealed with official seals after examination.

will detain it in his custody and request the addressee to furnish written authority for a customs officer to open the parcel in the presence of a representative of the postmaster. If the addressee does not furnish such written authority within 30 days after the date of notice by the postmaster or within such further time as may be allowed, the parcel will be treated as undeliverable mail matter. If the parcel, upon being opened under proper written authority, is found to contain merchandise free of internal-revenue tax and free of duty either because unconditionally free or because the aggregate value of the shipment is not more than $1 and the expense and inconvenience of collecting the duty accruing thereon would be disproportionate to the amount of such duty, the parcel may be delivered to the addressee without the collection of any fine on account of the article not having been endorsed or labeled in accordance with paragraph (a) of this section.

(c) Except as provided for in paragraph (b) of this section, if a sealed letter or other parcel not endorsed or labeled as required by paragraph (a) of this section is found to contain merchandise subject to duty (including conditionally free merchandise) or subject to internal-revenue tax, the merchandise is subject to seizure and forfeiture as having been imported contrary to law. Under the authority contained in section 618, Tariff Act of 1930, any forfeiture so incurred is hereby mitigated to an amount equal to 10 percent of the loss of revenue which was or might have been sustained, provided there is no evidence indicating to the collector that failure to label or endorse the parcel was due to willful negligence or to an intent to defraud the revenue. If there is any such evidence, or if for any other reason the collector believes that it would not be in the interest of the United States to grant this relief, the matter shall be reported to the Bureau of Customs for instructions. When the shipment does not exceed $250 in value, customs Form 3419 or 5119 shall be used for the entry of the merchandise and the duty, any internal-revenue tax, and the amount of the mitigated forfeiture shall be entered as separate items thereon. If a parcel for which a mail fine entry has been issued in accordance with the foregoing provision is undeliverable, it will be returned to the collector of customs at the port where the mail entry was issued, for disposition in accordance with § 9.12 (d) relating to articles subject to seizure. The addressee or sender may file a petition with the collector of customs at the port where the mail fine entry was issued for relief from the forfeiture incurred and for the release of the seized merchandise to the addressee or sender.

(Sec. 1, 62 Stat. 716, sec. 618, 46 Stat. 757; 18 U.S.C. 545, 19 U.S.C. 1618)

§ 9.6 Importations not over $1 in value; gifts.

(a) Customs officers shall pass free of duty and internal-revenue tax, without issuing a mail entry therefor, any parcel containing articles the aggregate value of which is not over $1, unless they have reason to believe that the parcel is one of several lots covered by a single order or contract and that it was sent separately for the express purpose of securing free entry therefor or of avoiding compliance with a provision of law or regulation.[6]

(b) Customs officers shall pass free of duty and internal-revenue tax, without issuing a mail entry therefor, parcels containing bona fide gifts from persons in foreign countries to persons in the United States, provided the aggregate value of such articles received by one person on one day does not exceed $10.

[6] "(a) The Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, is hereby authorized, under such regulations as he shall prescribe, to—

* * * * * *

"(2) Admit articles free of duty and of any tax imposed on or by reason of importation, but the aggregate value of articles imported by one person on one day and exempted from the payment of duty shall not exceed—

"(A) $10 in the case of articles sent as bona fide gifts from persons in foreign countries to persons in the United States, or

* * * * * *

"(C) $1 in any other case.

The privilege of this subdivision (2) shall not be granted in any case in which merchandise covered by a single order or contract is forwarded in separate lots to secure the benefits of this subdivision (2)." (Tariff Act of 1930, sec. 321 (a), as amended; 19 U. S. C. 1321 (a))

(c) The provisions of § 8.3(d) of the regulations of this part, except those permitting consolidation of shipments in cargo vans and similar commercial containers, are also applicable to this section.

(Sec. 7, 52 Stat. 1081, as amended; 19 U.S.C. 1321)

§ 9.7 Parcels for the United States Government; merchandise in diplomatic pouches; parcels marked for copyright; books, engravings, etc., for the United States.

(a) Parcels addressed to offices or officials of the United States Government, believed to contain only official documents, shall be forwarded immediately to the addressees. Such parcels, when known or believed to contain merchandise, shall be treated in the same manner as similar parcels for other addressees.

(b) Books, engravings, and other articles enumerated in item 830.00, Tariff Schedules of the United States which are imported by mail and addressed to the Library of Congress or any department or agency of the Government, shall be forwarded for delivery without the assessment of duty, if the collector is satisfied they are entitled to free entry under item 830.00, Tariff Schedules of the United States.

(c) Parcels marked for copyright, addressed to the Library of Congress, to the Copyright Office, or to the office of the Register of Copyrights, Washington 25, D. C., may be passed free of duty and promptly forwarded to destination.

(d) No merchandise of any character may be forwarded in diplomatic or other official pouches.[7]

§ 9.8 Cigars, cigarettes, and manufactured tobacco; playing cards, etc.

(a) In the case of mail entries for playing cards or other imported articles subject to tax and to which internal-revenue stamps must be affixed before release to the importer (see Internal Revenue Regulations, Part 45 (26 CFR Part 45)), customs officers shall sign and attach to the entries an order for stamps, and customs Form 3473. When the parcel is addressed for delivery at the post office where it is examined and customs Form 3473 is not required to insure the taking of the action described thereon, Form 3473 need not be prepared. The postmaster will furnish the addressee with the order for stamps. The addressee will be required to secure from the office of the district director of internal revenue the necessary stamps and affix them to the immediate packages of the merchandise before the parcels will be delivered to him.

(1) When playing cards imported by mail bear the required internal-revenue stamps affixed in a foreign country as provided for in regulations of the Internal Revenue Service, they may be treated the same as any importation by mail subject only to duty.

(2) The internal revenue tax on tobacco materials, tobacco products, and cigarette papers and tubes valued not in excess of $250 in a shipment imported by mail shall be paid on the basis of a return made on the mail entry. An additional legible copy of the entry form, marked or stamped "For Internal Revenue Purposes," shall be prepared for each entry covering such articles subject to Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275) if tax is payable upon release under such entry. The separate statement required for tax purposes by 26 CFR 275.81 shall be made on the entry form in such case. The duty and any applicable tax will be collected by the postal service for the Customs Service at the time of delivery of the shipment. A copy of the entry (return) will be given to the importer as a receipt for payment. Mail shipments of such articles released for consumption are subject to compliance with the package and notice requirements under 26 CFR Part 275 unless specifically exempted therefrom as indicated in § 11.3 of this chapter. Such articles may not be released under the mail entry procedure on the basis of a claim for release without payment of tax by a manufacturer or dealer specified in 26 CFR Part 275. If a claim is made at the time of delivery for release without payment of tax based on any of the provisions in 26 CFR Part 275 for a manufacturer of tobacco products, a manufacturer of cigarette papers and tubes, or a dealer in tobacco materials to obtain release of any such articles without pay-

[7] The regulations contained in § 10.30 of this chapter, which govern the free entry of articles for diplomatic and consular officers and other representatives of foreign countries, are applicable in the case of mail articles.

ment of tax, the shipment shall be returned by the postal service to the port of entry or sent to the nearest customs office at which appropriate release as claimed may be arranged by the addressee.

(b) When appropriate, the immediate packages of the merchandise shall be stamped by customs officers before the shipment is released for delivery.

(c) United States customs duty and internal-revenue tax on mail shipments of cigars for informal entry, dispatched to the United States under the provisions of the parcel-post convention with Cuba, effective September 1, 1930, may, at the option of the sender, be prepaid at Miami or Tampa, Fla., upon condition:

(1) That all such mail shipments of cigars from Cuba be sent in mail sacks addressed to the postmaster at Miami or Tampa for customs examination at either of those ports;

(2) That the Cuban sender will authorize, in writing, his representative at Miami or Tampa to prepay the customs duty and internal-revenue tax on each mail parcel before it is returned to the postmaster for delivery or dispatch to destination; and

(3) That each parcel, before dispatch to the United States, be plainly stamped "Customs duty and internal-revenue tax on this parcel to be paid at Miami (or Tampa) Fla."

(d) For each prepaid shipment the customs officer shall prepare customs Form 5119 in quadruplicate. When tax is applicable, an additional legible copy marked or stamped "For Internal Revenue Purposes," shall be prepared. All copies shall have separately shown thereon in such case the statement for tax purposes required by 26 CFR 275.81 of the regulations of the Internal Revenue Service. Two copies shall be signed by the collector or the deputy collector and the sender's representative. One of these copies shall be given to the representative as a receipt for the duty and tax paid.

(e) Each prepaid parcel shall be legibly stamped on the addressed side "U.S. customs duty and internal-revenue tax prepaid at Miami (or Tampa), Fla." followed by the mail entry number and the initials of two customs employees certifying to the appraisal of the merchandise and the collection of the duty and internal-revenue tax.

§ 9.9 Merchandise conditionally free.

(a) When the contents of a parcel may be conditionally free under the Tariff Schedules of the United States, the attached blank form of declaration for free entry shall be properly executed and returned to the postal authorities by the addressee in order to obtain free entry.

(b) When an institution files evidence to show that it is entitled to import books, music, and other merchandise free of duty under item 850.10 or item 851.10, Tariff Schedules of the United States, the name of such institution shall be placed on a free list, to be kept by the collector for that purpose, if the institution agrees in writing to notify the collector in the event goods not for the sole use of the institution arrive addressed to the institution. A mail importation of such merchandise, regardless of value, addressed directly to such an institution shall be passed free of duty without requiring compliance with paragraph (a) of this section and without issuing a mail entry.

(c) A conditionally free shipment from any United States insular possession, except Puerto Rico, valued over $25 but not over $250, when accompanied by the documentary evidence required by § 7.8 of this chapter, and any such shipment valued at $25 or less, may be passed without issuance of a mail entry if the collector is satisfied that the merchandise is entitled to free entry. In the case of each such shipment valued over $250, formal entry shall be required and the provisions of Parts 7 and 8 of this chapter shall be followed.

§ 9.10 Dissatisfied addressee; delivery under a resident's $200 or $300 exemption; undelivered dutiable parcels.

(a) Except as provided in paragraph (c) of this section, if the addressee of a shipment covered by a mail entry is dissatisfied with the amount assessed, he may (1) elect to pay the amount, take delivery of the shipment and petition the collector of customs to reliquidate the entry; or (2) refuse to accept the shipment and provide the postmaster with a written statement of his objections. In the latter case, the postmaster shall forward the addressee's protest to the customs office that issued the entry, accompanied by such invoices or other evidence submitted by the addressee, and retain custody of the shipment until advice is received from the issuing customs office as to the disposition to be made.

(b) If the collector of customs is satisfied that the protest of an addressee of a mail shipment against the amounts assessed is valid, the collector may reclassify the merchandise or amend the value, even though the merchandise has been delivered to the addressee. A mail entry may be reliquidated to allow a claim of the addressee after the expiration of 60 days after liquidation only if a protest has been filed in the form and manner prescribed in section 514, Tariff Act of 1930, or if the claim is allowable under section 520 (c) (2), Tariff Act of 1930, as amended.[8]

(c) Postmasters and military mail personnel may release shipments covered by mail entries claimed to be free of duty under tourist exemptions without the payment of duty upon presentation of a declaration on customs Form 3351 executed by the addressee. If the addressee cannot produce a customs Form 3351, the shipment may be released without the collection of duty upon the execution by the addressee of the declaration printed on the reverse side of the duplicate copy of the mail entry.

(d) If for any reason an undelivered parcel known or supposed to be dutiable is not returned to the country of origin, it will be delivered to the proper customs officer for disposition under the customs laws and regulations governing seized or unclaimed merchandise.

(Sec. 514, 46 Stat. 734; 19 U.S.C. 1514)

§ 9.11 Exportation by mail; plant material.

(a) Articles imported into the United States from foreign countries may be exported in the registered or ordinary mails, or in registered, insured, or ordinary parcel post, without the payment of duties that may have accrued thereon if the articles have remained continuously in the custody of the Government (customs or postal authorities), and the packages containing such articles are inspected and mailed under customs supervision. Waiver of the right to withdraw the package from the mails shall be endorsed on each package to be so exported and signed by the exporter. Export entries or withdrawals for exportation, as the case may be, shall be filed for such articles except those imported by mail (1) which are unclaimed or refused and are returned by the Post Office Department to the country of origin as undeliverable mail or (2) for which a formal entry has not been filed and which are remailed from continuous customs or postal custody to Canada. See §§ 8.45 and 22.27 of this chapter; and as to articles released from continuous Government custody for which return to customs custody is appropriate prior to exportation, see §§ 10.8, 10.17, 10.38, and 22.33 of this chapter.

(b) Shipments of plant material may be imported by mail free of duty for immediate exportation by mail subject to the following regulations, which have been approved by the Department of Agriculture and the Post Office Department:

(1) Each shipment shall be dispatched in the mails from abroad, accompanied by a yellow and green special mail tag bearing the serial number of the permit for entry for immediate exportation or immediate transportation and exportation, issued by the United States Department of Agriculture, and also the postal form of customs declaration.

(2) Upon arrival, the shipment shall be detained by or redispatched to the postmaster at Washington, D.C., Brownsville, Texas, Hoboken, New Jersey, Honolulu, Hawaii, Laredo, Texas, Miami, Florida, San Francisco, California, San Juan, Puerto Rico, San Pedro, California, or Seattle, Washington, as may be appropriate, according to the address on the green and yellow tag, and there submitted to the customs officer and the Federal quarantine inspector. The merchandise shall under no circumstances be permitted to enter the commerce of the United States.

(3) After inspection by the customs and quarantine officers, and with their approval, the addressee or his authorized agent shall repack and readdress the mail parcel under customs supervision; affix to the parcel the necessary postage; and comply with other mailing require-

[8] Liquidation of mail entries are subject to protest as in the case of formal entries. Importations in the mails are not subject to appeal for reappraisement unless formal entry has been made.

ments, after which the parcel shall be delivered to the postmaster for exportation by mail pursuant to paragraph (a) of this section. The contents of the original parcel may be subdivided and exported in separate parcels in like manner.

(4) It will not be necessary to issue a customs mail entry nor to require formal entry of the shipments.

(5) The mail shipments referred to shall be accorded special handling only at the points specified in subparagraph (2) of this paragraph.

(6) The foregoing procedure shall not affect the movement of plant material in the international mails in transit through the United States.

§ 9.12 Prohibited and restricted mail importations; seizure under the customs laws.

(a) Each mail shipment of admissible arms, implements of war, or other nonexplosive munitions of war designated in the United States Munitions List (22 CFR, Parts 121–128), issued pursuant to section 414 of the Mutual Security Act of 1954 (22 U. S. C. 1934), shall be detained by customs until an import license from the Secretary of State has been submitted for such shipment. Likewise, a shipment of firearms, as that term is defined in the National Firearms Act, as amended (26 U.S.C. 5848), shall be detained by customs until an import permit from the Commissioner of Internal Revenue has been submitted by the addressee. If the import license or the import permit is found to be in proper form, the mail parcel shall be endorsed by customs to show that it is entitled to entry and released to the postmaster for delivery or dispatch to destination in the mails, subject to any duties that may accrue and to other customs requirements applicable thereto. Pistols, revolvers, and other firearms capable of being concealed on the person are nonmailable, with certain exceptions (18 U.S.C. 1715), and when received in the mails such nonmailable articles are subject to seizure and forfeiture under the customs laws.

(b) Plants and plant products, including seeds and bulbs of all kinds, may be imported into the United States only under the conditions set forth in the Plant Quarantine Act, amendments thereto, and regulations thereunder. All such articles shall be submitted through customs officials to plant quarantine inspectors of the United States Department of Agriculture for fulfillment of the requirements of the law.

(c) Certain viruses, serums, toxins, and other biological products as well as organisms and vectors are subject to import restrictions (see §§ 12.17—12.23 of this chapter).[*] In all cases mail shipments of such products shall be submitted to customs representatives who shall communicate with the addressees and determine whether such importations are in compliance with the law and regulations.

(d) All mail shipments containing articles, except lottery matter and contraceptive literature which are prohibited importation and all mail shipments containing articles subject to seizure as being imported or brought into the United States in any manner contrary to law shall be immediately taken and held by customs officers for appropriate treatment under the customs laws. All mail parcels which are known or believed to contain merchandise and of which the addressee refuses to take delivery, or for which the addressee declines to make formal entry when requested by the customs officer in cases where the appraised value exceeds the value shown in the declaration or invoice, will be delivered to customs officers for treatment under the customs laws upon production to the postmaster concerned of satisfactory evidence of fraudulent intent on the part of any of the persons mentioned in this paragraph. In all cases where articles are seized by customs officers, notice shall be given by customs officers to the addressee of that fact and the reason therefor.

(e) Mail parcels of all classes, sealed or unsealed, which upon inspection or examination are found to contain or are supposed to contain lottery matter prohibited importation under section 305, Tariff Act of 1930, or enclosures pertaining thereto, will be retained by the postal service, or shall be delivered to that service by the Customs Service, for disposition under the Postal Laws and Regulations. If such a parcel is found to contain other merchandise, the parcel shall be held by, or delivered to, the Customs Service for appropriate treatment under the customs laws and regulations. Mail parcels which upon inspection or examination are found to contain contraceptive literature will be retained by the postal service, or shall be delivered to that service by the customs service, for disposition under the Postal Laws and Regulations. If the postal service shall determine in any case that it is proper to release contraceptive literature to an addressee, such literature before delivery to the addressee will be turned over to the nearest customs officer located at a post office for treatment by customs in the same manner as other articles imported in the mails.

(Sec. 305, 46 Stat. 688, as amended; 19 U.S.C. 1305)

§ 9.13 Communist political propaganda.

(a) Collectors of customs shall make determinations required by subsection (a) of 39 U.S.C. 4008[*] as to whether mail matter, except sealed letters, which originates or which is printed or otherwise prepared in a foreign country is "Communist political propaganda" within the meaning of subsection (b) of 39 U.S.C. 4008.[*] Such determinations shall be communicated forthwith to the appropriate postmaster.

(b) A collector of customs is authorized to make the foregoing determinations with respect to all mail matter whether it arrives in the customs collection district under his jurisdiction or in a customs collection district under the jurisdiction of any other collector of customs.

(c) Subsection (c) of 39 U.S.C. 4008[*] provides for the delivery of certain mail matter to specified classes of addressees without reference to whether such mail matter is "Communist political propaganda." The Post Office Department will determine which mail is in these categories.

(Sec. 305, 74 Stat. 654; 39 U.S.C. 4008)

---

[*] (a) Mail matter, except sealed letters, which originates or which is printed or otherwise prepared in a foreign country and which is determined by the Secretary of the Treasury pursuant to rules and regulations to be promulgated by him to be "communist political propaganda", shall be detained by the Postmaster General upon its arrival for delivery in the United States, or upon its subsequent deposit in the United States domestic mails, and the addressee shall be notified that such matter has been received and will be delivered only upon the addressee's request, except that such detention shall not be required in the case of any matter which is furnished pursuant to subscription or which is otherwise ascertained by the Postmaster General to be desired by the addressee. If no request for delivery is made by the addressee within a reasonable time, which shall not exceed sixty days, the matter detained shall be disposed of as the Postmaster General directs.

(b) For the purposes of this section, the term "communist political propaganda" means political propaganda, as defined in section 1(j) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 (j)), issued by or on behalf of any country with respect to which there is in effect a suspension or withdrawal of tariff concessions pursuant to section 5 of the Trade Agreements Extension Act of 1951 or section 231 of the Trade Expansion Act of 1962, or any country from which any type of foreign assistance is withheld pursuant to section 620(f) of the Foreign Assistance Act of 1961, as amended.

(c) The provisions of this section shall not be applicable with respect to (1) matter addressed to any United States Government agency, or any public library, or to any college, university, graduate school, or scientific or professional institution for advanced studies, or any official thereof, or (2) material whether or not "communist political propaganda" addressed for delivery in the United States pursuant to a reciprocal cultural international agreement under which the United States Government mails an equal amount of material for delivery in any country described in subsection (b). (39 U.S.C. 4008.)

such articles shall be submitted through examination are

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

ARTICLES EXPORTED AND RETURNED

Sec.
10.1 Domestic products; requirements on entry.
10.2 Waiver of evidence.
10.3 Drawback; internal-revenue tax.
10.4 Internal-revenue marks; erasure.
10.5 Shooks and staves; cloth boards; collector's account.
10.6 Certificates of foreign shipper and box maker.
10.7 Substantial containers or holders.
10.8 Articles exported for repairs, alterations, or processing.
10.9 Books bound abroad.
10.10 News-reel films.

HOUSEHOLD EFFECTS

10.11 Declaration.
10.12 Use abroad.

EFFECTS OF CITIZENS DYING ABROAD; TOOLS OF TRADE

10.14 Effects of citizens dying abroad; procedure.
10.15 Tools of trade.

PASSENGERS' BAGGAGE

10.16 Status of passengers.
10.17 Exemptions for returning residents.
10.17a Temporary regulations applicable during the effective period of item 915.30, Tariff Schedules of the United States.
10.18 Exemptions for nonresidents.
10.19 Declaration and entry.
10.20 Unaccompanied shipments.
10.21 Examination procedure; collection of duties and taxes.
10.22 Crews' effects.
10.23 Vessels transiting the Panama Canal; treatment of passengers' baggage and crews' effects.
10.24 Government vessels.
10.25 Army and Navy transports; baggage brought in.
10.26 Household and personal effects of Army, Navy, and Marine Corps personnel and of civilian employees of the Panama Canal.
10.27 Unclaimed and unaccompanied baggage.
10.28 Registration of valuable effects.

DIPLOMATIC AND CONSULAR OFFICERS

10.29 Baggage.
10.30 Importations for resident representatives of foreign governments.

PUBLIC INTERNATIONAL ORGANIZATIONS

10.30a Organizations included.
10.30b Baggage of, and importations for, certain representatives of the United Nations, of specialized agencies of the United Nations, and of the Organization of American States.

FREE ENTRY; FOREIGN MILITARY PERSONNEL AND MEMBERS OF THEIR IMMEDIATE FAMILIES

10.30c Articles for the use of foreign military personnel and their immediate families.

TEMPORARY IMPORTATIONS UNDER BOND

10.31 Entry; bond.
10.33 Theatrical effects.
10.34 Articles brought by professional artists, lecturers, or scientists.
10.35 Models of women's wearing apparel.
10.36 Commercial travelers' samples; professional equipment and tools of trade; theatrical effects and other articles.
10.37 Extension of bonds.
10.38 Exportation.
10.39 Cancellation of bonds.
10.40 Refund of cash deposits.

INTERNATIONAL TRAFFIC

10.41 Instruments; exceptions.
10.41a Lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments of international traffic.
10.42 Automobiles and other vehicles, boats, teams, and saddle horses taken abroad.

ARTICLES FOR INSTITUTIONS

10.43 Requirements on entry.
10.44 Declaration of importer of record.
10.45 Serial publications; list of publications.

WORKS OF ART

10.48 Original paintings, engravings, drawings, sculpture, etc.
10.49 Articles for exhibition; requirements on entry.
10.50 Works of American artists.
10.52 Stained or painted glass windows for houses of worship.
10.53 Antiques.
10.54 Gobelin and other hand-woven tapestries.

VEGETABLE OILS

10.56 Vegetable oils, denaturing; release.

POTATOES, CORN, OR MAIZE

10.57 Certified seed potatoes, and seed corn or maize.

BOLTING CLOTHS

10.58 Bolting cloths; marking.

WITHDRAWAL OF SUPPLIES AND EQUIPMENT FOR VESSELS

10.59 Exemption from customs duties and internal-revenue tax.
10.60 Forms of withdrawals; bond.
10.61 Withdrawal permit.
10.62 Bunker oil.
10.63 Landing of supplies and stores from receiving vessel in the United States.
10.64 Crediting or cancellation of bonds.
10.65 Tobacco products.

ARTICLES EXPORTED FOR EXHIBITION, ETC.

10.66 Articles exported for temporary exhibition and returned; procedure on entry.
10.67 Articles exported for scientific or educational purposes and returned; procedure on entry.

THEATRICAL EFFECTS, MOTION-PICTURE FILMS, AND COMMERCIAL TRAVELERS' SAMPLES

10.68 Procedure.
10.69 Samples to Great Britain and Ireland under reciprocal agreement.

ANIMALS AND BIRDS

10.70 Purebred animals for breeding purposes; declaration; certificate.
10.71 Purebred animals; bond for production of evidence; deposit of estimated duties; stipulation.
10.72 Horses and mules for immediate slaughter.
10.73 Cows for dairy purposes.
10.74 Animals straying or driven across boundary for pasturage; offspring.
10.75 Wild animals and birds; zoological collections.
10.76 Game animals and birds.
10.77 Skins bearing wool or hair as fur skins.

PRODUCTS OF AMERICAN FISHERIES

10.78 Entry.
10.79 Proof.

SALT FOR CURING FISH

10.80 Remission of duty; withdrawal; bond.
10.81 Use in any district.
10.82 Proof of use.
10.83 Bond; cancellation; extension.

PATNA RICE

10.88 Patna rice to be used in the manufacture of canned soups.

MASTER RECORDS, AND METAL MATRICES

WOOLS AND HAIR OF THE CAMEL FOR USE IN MANUFACTURING FLOOR COVERINGS AND OTHER ARTICLES

10.91 Importation under item 306.00; entry or withdrawal under bond.
10.92 Bond; form; penalty.
10.93 Records of receipt of wool or hair.
10.94 Manufacturing records.
10.95 Records and reports of enumerated articles of wool or hair delivered; transfer certificates.
10.96 Reports of use or transfer for use in violation of bond.
10.97 Duties, exportation or destruction.

FLUXING MATERIAL

10.98 Copper-bearing fluxing material.

ETHYL ALCOHOL

10.99 Importation of ethyl alcohol for nonbeverage purposes.

RAPESEED OIL

10.100 Rapeseed oil to be used in the manufacture of rubber substitutes or lubricating oil.

LIMESTONE

10.101 Limestone to be used in the manufacture of fertilizer.

UNITED STATES GOVERNMENT IMPORTATIONS

10.103 Entry, examination, and tariff status
10.104 Importations by a military department, the General Services Administration, and the Atomic Energy Commission.
10.105 American goods returned.

WHEAT

10.106 Wheat, unfit for human consumption; other wheat.

RESCUE AND RELIEF WORK

10.107 Equipment and supplies; admission

PRODUCTS EXPORTED UNDER LEASE AND REIMPORTED

10.108 Entry of reimported articles exported under lease.

STRATEGIC MATERIALS OBTAINED BY BARTER OR EXCHANGE

10.110 Strategic materials acquired as a result of barter or exchange of agricultural commodities or products.

WOOLEN TEXTILES

10.111 Woolen textiles imported to be used in the manufacture of apparel for members of religious orders.

LATE FILING OF FREE ENTRY DOCUMENTS

10.112 Filing free entry documents after entry.

PUMICE STONE

10.113 Pumice stone to be used in the manufacture of concrete masonry products, such as building blocks, bricks, tiles, and similar forms.

AUTHORITY: §§10.1 to 10.113 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

ARTICLES EXPORTED AND RETURNED

§ 10.1 Domestic products; requirements on entry.

(a) Except as otherwise provided for in this section or in § 10.2, the following documents shall be filed in connection with the entry of articles claimed to be free of duty under schedule 8, part 1, Tariff Schedules of the United States:[1]

(1) A declaration by the foreign shipper in substantially the following form, if the value of the returned articles exceeds $500:

I, _____, declare that the articles herein specified are, to the best of my knowledge and belief, the growth, produce, or manufacture of the United States; that they were exported from the United States, from the port of _____ on or about _____, 19__; that they are returned without having been advanced in value or improved in condition by any process of manufacture or other means.

Marks	Number	Quantity	Description	Value, U. S. Coin

_____
(Signature)

_____
(Capacity)

_____
(Date)

_____
(Address)

[1] "PART I—ARTICLES EXPORTED AND RETURNED.

"Part 1 headnotes:

* * * * *

"2. Any product of the United States which is returned after having been advanced in value or improved in condition abroad by any process of manufacture or other means, or any imported article which has been assembled abroad in whole or in part of products of the United States, shall be treated for the purposes of this Act as a foreign article, and, if subject to a duty which is wholly or partly ad valorem, shall be dutiable, except as otherwise prescribed in this part, on its full value determined in accordance with section 402 or 402a of this Act. If such product or such article is dutiable at a rate dependent upon its value, the value for the purpose of determining the

(Footnote 1—Continued)

rate shall be its full value under the said section 402 or 402a.

"3. This part does not apply to animals provided for in item 100.03 of part 1 of schedule 1.

"Subpart A—Articles Not Advanced or Improved Abroad

"Subpart A headnotes:

"1. The items in this subpart (except item 804.00) shall not apply to any article—

"(a) exported with benefit of drawback;

"(b) of a kind with respect to the importation of which an internal-revenue tax is imposed at the time such article is entered, unless such article was subject to an internal-revenue tax imposed upon production or importation at the time of its exportation from the United States and it shall be proved that such tax was paid before exportation and was not refunded; or

"(c) manufactured or produced in the United States in a customs bonded warehouse or under item 864.05 and exported under any provision of law.

* * * * *

"Item 800.00 Products of the United States when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means while abroad. * * *

* * * * *

"Subpart B—Articles Advanced or Improved Abroad

"Subpart B headnotes:

"1. This subpart shall not apply to any article exported—

"(a) from continuous customs custody with remission, abatement, or refund of duty;

"(b) with benefit of drawback;

"(c) to comply with any law of the United States or regulation of any Federal agency requiring exportation; or

"(d) after manufacture or production in the United States under item 864.05 of this schedule.

* * * * *

"3. *Articles assembled abroad with components produced in the United States.*—The following provisions apply only to item 807.00:

"(a) The value of the products of the United States assembled into the imported article shall be—

(i) the cost of such products at the time of the last purchase; or

(ii) if no charge is made, the value of such products at the time of the shipment for exportation, as set out in the invoice and entry papers; except that, if the appraiser concludes that the amount so set out does not represent a reasonable cost or value,

(Footnote 1—Continued)

then the value of such products shall be determined in accordance with section 402 or 402a of this Act.

"(b) The duty on the imported article shall be at the rate which would apply to the imported article itself, as an entirety without constructive separation of its components, in its condition as imported if it were not within the purview of this subpart. If the imported article is subject to a specific or compound rate of duty, the total duties shall be reduced in such proportion as the cost or value of such products of the United States bears to the full value of the imported article.

"4. No imported article shall be accorded partial exemption from duty under more than one item in this subpart.

"Item 805.00 Photographic films and dry plates manufactured in the United States (except motion-picture films to be used for commercial purposes) and exposed abroad, whether developed or not * * *

* * * * *

"Item 807.00 Articles assembled abroad in whole or in part of products of the United States which were exported for such purpose and which have not been advanced in value or improved in condition abroad by any means other than by the act of assembly * * *" (A duty upon the full value of the imported article, less the cost or value of such products of the United States (see headnote 3 of this subpart).)

"Subpart C—Substantial Containers or Holders

"Subpart C headnotes:

"1. This subpart covers only substantial containers and holders which are of the usual or ordinary types used in the shipment or transportation of goods and which are reusable for such purposes and subject to treatment as imported articles (see general headnote 6 (a) and (b)(ii)).

"2. This subpart does not apply to any container or holder—

"(a) exported with benefit of drawback and returned empty; or

"(b) manufactured or produced in the United States in a customs bonded warehouse or under item 864.05 of this schedule and exported under any provision of law.

"3. In order to facilitate the prompt clearance at ports of entry of substantial containers and holders provided for in this subpart, the Secretary of the Treasury is authorized—

"(a) to permit the admission thereof without entry if readily identifiable as meeting the conditions of free entry set forth in this subpart; and

"(b) to permit any duties thereon to be paid cumulatively from time to time either before or after their importation when conditions exist which permit adequate customs control to be maintained.

"Item 808.00 Substantial containers and holders, if products of the United States (including shooks and staves of United States production when returned as boxes or barrels containing merchandise), or if of foreign production and previously imported and duty thereon paid or if of a class specified by the Secretary of the Treasury as instruments of international traffic. * * *" (Schedule 8, part 1, Tariff Schedules of the United States.)

(2) A declaration of the owner, importer, consignee, or agent on customs Form 3311.

(3) A certificate, customs Form 4467, of the collector of customs at the port from which the merchandise was exported from the United States, except that no such certificate shall be required if the articles are unquestionably products of the United States which have not been advanced in value or improved in condition while abroad and the collector is satisfied by reason of the nature of the articles or otherwise that no drawback of duties or refund or remission of taxes was allowed when the articles were exported from the United States. Such certificate shall show whether drawback was claimed or paid on the merchandise covered by the certificate and, if any was paid, the amount thereof. This certificate shall be issued on application of the importer, or of the collector at the importer's request, and shall be mailed by the issuing officer directly to the port at which it is to be used. If the merchandise has been exported from the port at which entry is made and the fact of exportation appears on the records of the customhouse, the fact of reimportation shall be noted on such export record but the filing of the certificate on Form 4467 shall not be required.

(b) If, in any case where the appraising officer's report does not show definitely that merchandise the value of which exceeds $500 is of domestic origin, customs Form 3311 has not been executed by the owner or ultimate consignee, the collector may require the execution of such form by the owner or ultimate consignee. In such a case Form 3311 shall be filed within 3 months after the date of the demand therefor upon the person in whose name the entry was filed. If the owner or ultimate consignee is a corporation, such form may be signed by the president, vice presi-

dent, secretary, or treasurer of the cor-

dent, secretary, or treasurer of the corporation, or it may be signed by any employee or agent of the corporation who holds a power of attorney executed under the conditions outlined in § 8.19 of this chapter and a certification by the corporation that such employee or other agent has or will have knowledge of the pertinent facts. In the case of articles which are unquestionably the growth, produce, or manufacture of the United States and which have not been advanced in value or improved in condition, if the collector is satisfied from the character thereof or otherwise that they are free of duty under schedule 8, part 1, Tariff Schedules of the United States, and if the total value of the articles of American origin contained in the shipment does not exceed $250, the execution of customs Form 3311 shall not be required therefor, except when used as an entry under paragraph (d), (e), or (f) of this section.

(c) In the case of motion-picture films exposed abroad, free entry shall not be allowed under item 805.00 unless the requirements set forth above are met and the collector is satisfied by a declaration of the importer and such other evidence as the collector shall deem necessary that the films are not to be used for commercial purposes. Such motion-picture films, when imported in passengers' baggage, may be passed free of duty without compliance with the requirements of this section if the collector is satisfied that the films were manufactured in the United States and are not to be used for commercial purposes.

(d) In the case of aircraft and parts and equipment therefor which are returned to the United States by or for the account of an aircraft owner or operator and are intended for use in his or its own aircraft operations, either within or outside the United States and with or without alteration or other change in condition in this country, entry thereof may be made under item 800.00 on customs Form 3311, executed by the importer and supported by proper evidence of the right to make the entry, but without the other documents described in this section and without the giving of a bond to produce any of them, when there is no question that the articles are of domestic origin and it satisfactorily appears that they have not been improved in condition or advanced in value while abroad and that no drawback has been or will be paid on them. In such a case, the entrant shall show on customs Form 3311 after the words "returned to" the name and address of the aircraft owner or operator by whom or for whose account the articles were returned. The entrant shall also show on Form 3311 the name of the importing conveyance, the date of its arrival, the values of the articles, and that they are intended for use in the aircraft owner's or operator's own aircraft operations.

(e) Entry of nonconsumable stores and equipment of a vessel may be made under item 800.00 on customs Form 3311, in duplicate, executed by the importer and supported by proper evidence of the right to make entry when there is no question that the articles are of domestic origin, and it satisfactorily appears that they have not been improved in condition or advanced in value while abroad; that no customs drawback has been or will be paid on them, and that duty is not payable thereon because of an internal-revenue tax. No declaration of a foreign shipper and no certificate of exportation is required in connection with an entry on customs Form 3311. In satisfying himself that no customs drawback was allowed on the articles in connection with their removal from the United States, the customs officer may accept the written declaration of the master or other person having knowledge of the facts showing that the articles left this country on a vessel of the United States or a vessel operated by the United States Government as stores or equipment thereof and that they were not landed in a foreign country except for any needed repairs, adjustments, or refilling and return to the vessel from which landed or for transshipment to another vessel as stores or equipment thereof. Such declaration may be made on the reverse side of the entry on customs Form 3311. The entrant shall show on customs Form 3311 the name of the importing vessel, the date of its arrival, and the values of the articles.

(f) When the total value of articles of claimed American origin contained in any shipment does not exceed $250 and the articles are found to be unquestionably of domestic origin and do not appear to have been advanced in value or improved in condition while abroad and no quota is involved, free entry thereof may be made under item 800.00 on customs Form 3311, executed by the importer and filed in duplicate, without regard to the requirement of a certificate of exportation or evidence of similar purport, unless the customs officer has reason to believe that customs drawback or exemption from internal-revenue tax, or both, were probably allowed on exportation of the articles or that they are otherwise subject to duty. The entrant shall show on customs Form 3311 the name of the importing conveyance, the date of its arrival, the name of the country from which the articles were returned to the United States, and the values of the articles. The entrant shall also produce evidence of his right to make entry. If the customs officer is not entirely certain as to the domestic origin of articles entered under this paragraph by a nominal consignee, the actual owner or ultimate consignee thereof may be required to execute a customs Form 3311.

§ 10.2 Waiver of evidence.

(a) The collector may waive the declaration of the foreign shipper provided for in § 10.1(a)(1) if he is satisfied by the production of other evidence as to the existence of all the facts upon which the entry of the merchandise under schedule 8, part 1, Tariff Schedules of the United States, is dependent.

(b) No evidence relative to the conditions of schedule 8, part 1, shall be required in the case of articles of domestic manufacture in use at the time of importation as the usual coverings or containers of merchandise not subject to an ad valorem rate of duty unless such articles would be dutible if not of domestic manufacture under General Headnote 6, Tariff Schedules of the United States.

(c) A certificate from the master of a vessel showing that articles of domestic production are returned in the same vessel without having been unladen may be accepted in lieu of a declaration of the foreign shipper.

§ 10.3 Drawback; internal-revenue tax.

(a) Except as prescribed in § 10.1 (f) or in paragraph (c) of this section, no free entry shall be allowed under schedule 8, part 1, Tariff Schedules of the United States, in the final liquidation of an entry unless the collector is satisfied by the certificate of exportation or other evidence or information that no drawback was allowed in connection with the exportation from the United States, and unless no internal-revenue tax is imposed on the importation of like articles not previously exported from the United States or, if such tax is being imposed at the time of entry for consumption or withdrawal from warehouse for consumption, the collector is satisfied that an internal-revenue tax on production or importation was paid in respect of the imported article before it was exported from the United States and was not refunded.[2] Except as provided for in § 10.1 (f), when it is impracticable, because of the destruction of customs records or other circumstances, to deter-

[2] Articles previously exported from the United States which are excepted from free entry under any of the foregoing items by headnote 1 of this subpart and are not otherwise free of duty [are subject to] a duty (in lieu of any other duty or tax) equal to the sum of any duty and internal-revenue tax imposed upon the importation of like articles not previously exported, but in no case in excess of the sum of any customs drawback proved to have been allowed upon such exportation of the article and any internal-revenue tax imposed, at the time such article is entered, upon the importation of like articles not previously exported." (Item 804.00, Tariff Schedules of the United States.)

"For the purposes of item 804.00—

"(a) when because of the destruction of customs records or for other cause it is impracticable to establish whether drawback was allowed, or the amount allowed, on a returned article, there shall be assessed thereon an amount of duty equal to the estimated drawback and internal-revenue tax which would be allowable or refundable if the imported merchandise used in the manufacture or production of the returned article were dutiable or taxable at the rate applicable to such merchandise on the date of entry, but in no case more than the duty and tax that would apply if the article were wholly of foreign origin; and

"(b) in order to facilitate the ascertainment and collection of the duty provided for, the Secretary of the Treasury is authorized to ascertain and specify the amounts of duty equal to drawback or internal-revenue tax which shall be applied to articles or classes or kinds of articles, and to exempt from the assessment of duty articles or classes or kinds of articles with respect to which the collection of such duty involves expense and inconvenience to the Government which is disproportionate to the probable amount of such duty." (Schedule 8, part 1A headnote 2 Tariff Schedules of the United States.)

mine whether drawback was allowed, or the amount of drawback allowed, with respect to an article established to be a returned product of the United States which has not been advanced in value or improved in condition while abroad, there shall be assessed on the returned article an amount of duty determined as follows: (1) If there is any likelihood that drawback was allowable on the exportation of like articles at any time when the imported article may have been exported from the United States, the estimated amount of any drawback which would have been allowable if duty had been paid on any foreign merchandise likely to have been used in the manufacture of the returned article at the rate or rates applicable to such foreign merchandise on the date of importation of the returned article (see paragraph (b) of this section) and (2) if there is any likelihood that a refund or remission of tax was allowed on the exportation of the returned article, the amount of any internal-revenue tax which would be payable at the time of importation if the returned article were wholly of foreign origin, but in no such case shall there be assessed more than an amount equal to the duty and tax that would apply if the returned article were wholly of foreign origin and originally imported. (See § 10.7(a).) Except as provided for in § 10.1(f), if the imported article is of a kind which would be subject to an internal-revenue tax if of foreign origin and payment of an internal-revenue tax before exportation without refund thereof is not established, duty shall be assessed on the imported article in an amount equal to the internal-revenue tax imposed at the time of entry for consumption or withdrawal from warehouse for consumption on like articles of foreign origin, plus the amount of any drawback allowed on the exportation of the article from the United States; but if no drawback was allowed, the duty equal to internal-revenue tax shall be the total duty to be assessed. If an allowance of drawback on the exportation from the United States of the imported article is established, duty shall be assessed in an amount equal to such drawback, plus an amount equal to any internal-revenue tax which may be assessable in accordance with this paragraph; but in no case shall duty equal to drawback, or to drawback and internal-revenue tax, be assessed in an amount in excess of the ordinary customs duty and internal-revenue tax applicable to like articles of foreign origin. In any case, where payment of internal-revenue tax before exportation without refund thereof is established, no duty equal to an internal-revenue tax currently in force shall be assessed.

(b) In the absence of satisfactory evidence as to the nonallowance of drawback or the amount thereof allowed on the following articles of American manufacture or production, duty shall be assessed thereon in the amounts respectively indicated, the amount shown in each case being considered the fair average amount of drawback allowed on such articles:

Article	*Duty assessment*
Drums, metal (when not exempt from duty in accordance with sec. 10.3 (c)).	24 cents each.
Hosiery, nylon	45 cents per dozen.
Lead compound, tetraethyl	$0.006 per pound.
Lithopone	$0.00143 per pound.
Oxide, zinc	$0.0065 per pound.
Piece goods, cotton:	
Bleached	$0.02675 per square yard.
Dyed	$0.02888 per square yard.
Printed	$0.02697 per square yard.
Piece goods, nylon: Dyed	$0.24320 per square yard.
Piece goods, rayon:	
Printed	$0.04070 per square yard.
Other than printed (white, piece dyed or yarn dyed)	$0.07089 per square yard.
Tallow, refined, inedible	$0.007 per pound.

(c) The following articles shall be admitted free of duty, even though exported from the United States with benefit of drawback:

(1) Any article of a kind which would be admitted free of duty otherwise than under schedule 8, part 1, Tariff Schedules of the United States if of foreign origin;

(2) Substantial containers or holders of domestic manufacture, including shooks and staves when returned as boxes or barrels, when in use at the time of importation as the usual containers of merchandise;

(3) Any article provided for in item 804.00 Tariff Schedules of the United States, with respect to which the collector of customs has determined that the collection of duty under such item 804.00 would involve an expense and inconvenience to the Government disproportionate to the probable amount of such duty; and

(4) Other articles of domestic manufacture which are in use at the time of importation as the usual coverings or containers of merchandise not subject to an ad valorem rate of duty, and which have not been advanced in value or improved in condition while abroad by any process of manufacture or other means.[1]

(d) Articles manufactured or produced in the United States in a customs bonded warehouse and exported shall be subject on reimportation to a duty equal to the total duty and internal-revenue tax, if any, imposed at the time of entry for consumption or withdrawal from warehouse for consumption with respect to the importation of like articles not previously exported from the United States.

(e) Animals straying across the border or driven across the border for pasturage purposes or for feeding to improve them for the market and not returned within 8 months are excluded from free entry as domestic products returned.

§ 10.4 Internal-revenue marks; erasure.

Internal-revenue brands or marks on casks or other containers previously exported from the United States must be erased at the importer's expense under customs supervision before their delivery from customs custody.

§ 10.5 Shooks and staves; cloth boards; collector's account.

(a) Shooks and staves produced in the United States and returned in the form of complete boxes or barrels in use as the usual containers of merchandise are exempt from any duties imposed by the tariff laws upon similar containers made of foreign shooks or staves, provided their identity is established under the regulations in this part.

(b) The term "shook" embraces only shooks which at the time of exportation from this country are ready to be assembled into boxes or barrels without further cutting to size; except that box shooks may be exported in double lengths and cut abroad. The number of boxes made from such shooks which may be imported into this country free of duty cannot exceed the number of complete sets of shooks exported.

(c) [Reserved]

(d) An exporter of shooks or staves in respect of which free entry is to be claimed when returned as boxes or barrels shall file in triplicate with the collector of customs at the port of exportation, at least 6 hours before the lading of the articles on the exporting vessel, a notice of intent to export, customs Form 4481.

(e) The certificate of exportation block of customs Form 4481 shall be completed in triplicate by the collector after verification from the manifest of the exporting vessel and the return of the lading officer. The original shall be forwarded by the collector to the consignee. The duplicate copy shall be given to the exporter and the triplicate copy shall be retained.

(f) Whenever boxes or barrels alleged to have been manufactured from American shooks or staves are shipped to the United States from a person abroad other than the one to whom they were exported from the United States, the importer shall be required to obtain from the foreign consignee to whom the shooks or staves were originally exported from this country the certificate or certificates, customs Form 4481, covering the exportation of the shooks or staves from the United States, or an extract therefrom signed by such consignee, showing the number of shooks or staves covered by such certificate or certificates, together with the number of superficial feet of such shooks or staves. Such Form 4481, or extract therefrom, shall be filed by the importer in connection with the entry of the boxes or barrels.

(g) Accounts shall be kept by the collector of customs at the port of exporta-

[1] Filling, sealing, and labeling are held to advance the value of the contents rather than that of the container.

from the United States with benefit of drawback.

tion of the shooks and staves as to each exportation thereof and as to the returns thereof in boxes, barrels, etc. Notifications of such returns shall be given to the port of exportation by the collector at the port of importation. When returns in the form of boxes, barrels, etc., entirely account for the shooks and staves exported as shown on the appropriate customs Form 4481, the collector maintaining the account shall so inform the collector making inquiry about the merchandise being imported and alleged to contain shooks or staves covered by the particular exportation.

(h) A record of cloth boards of domestic manufacture exported [5] to be wrapped with foreign textiles shall be kept by collectors of customs in a similar manner as for shooks and staves. If such boards are advanced in value or improved in condition while abroad, free entry shall be denied on importation.

§ 10.6 Certificates of foreign shipper and box maker.

(a) A foreign shipper desiring to export to the United States boxes or barrels alleged to have been made from American shooks shall execute and send with the invoice covering the merchandise contained in such boxes or barrels a certificate of the foreign shipper, stating that the boxes or barrels were made from American shooks or staves, and identifying the latter with the certificate covering their exportation from the United States. This foreign shipper's certificate shall be in the following form:

I, _____, of_____, do hereby certify that to the best of my knowledge and belief the boxes and (or) barrels mentioned in (the annexed invoice)* (invoice No. _____, of_____, 19__)* are made (wholly)* (except for the ends and partitions)* of shooks (or staves) of the manufacture of the United States, as stated in the accompanying certificate of _____, box maker; that the shooks (or staves) were exported from_____, per S. S_____, on_____, 19__, and that the said boxes (or barrels) (will be)* (have been)* filled with _____, covered by the above-mentioned invoice, and (will be)* (have been)* shipped to the port of_____ in the United States, per S. S_____, sailing from _____, on _____, 19__.

Dated at _____ this _____ day of _____, 19__.

_____
(Shipper)

*Cross out inapplicable words.

Number of boxes or barrels	Dimensions	Number of shooks or staves used and size thereof	Number of superficial feet used

Dated at _____, this _____ day of _____, 19__.

_____
(Box maker)

(b) There shall be annexed to the certificate of the foreign shipper, on the same or a separate form, a certificate of the box maker, stating that the boxes or barrels were made from American shooks or staves and showing the number of boxes or barrels in the shipment, the dimensions of each, and number of shooks or staves of each size, together with the number of superficial feet of lumber used. This certificate shall be in the following form:

I, _____, of_____, do hereby certify that the boxes and (or) barrels mentioned in the annexed certificate of foreign shipper were made by me (wholly)* (except for the ends and partitions)* from shooks (or staves) of the manufacture of the United States as follows:

*Cross out inapplicable words.

(c) If a claim accompanied by an appropriately modified customs Form 3311 is made by the importer at the time of filing the entry for an exemption from duty on account of boxes or barrels made from American shooks or staves, the certificate of the foreign shipper with the annexed certificate of the box maker may be accepted if produced at any time prior to the liquidation of the entry. Upon receipt, from the collector at the port of exportation of the shooks and staves, of corroboration that the records of exportation do not conflict materially with such claim, the exemption may be allowed. If the claim for an exemption is disallowed in full or in part, the importer may file a request, within 15 days of the date of the collector's notice to him of any disallowance, for referral of the question to the Commissioner of Customs for review.

§ 10.7 Substantial containers or holders.

(a) Except as provided for in § 10.2(b), substantial containers or holders, which are products of the United States, which are of the usual and ordinary types used in the shipment or transportation of goods, which are reusable for such purposes, and which are imported containing or holding merchandise, shall be entered under the general regulations governing the free entry of domestic products exported and returned. When such containers or holders are imported not containing or holding merchandise they may be admitted without entry if readily identifiable as products of the United States.

(b) Substantial containers or holders, which are of foreign production and previously imported duty paid, which are of the usual or ordinary types used in the shipment or transportation of goods, which are reusable for such purpose, and which are imported containing or holding merchandise, shall be exempt from duty if (1) exported in accordance with the regulations contained in § 10.5 (d) and (e), and (2) there are filed in connection with the entry a declaration of the importer on customs Form 3289 and a certificate of the foreign shipper in the form prescribed by paragraph (c) of this section.

(c) The certificate to be furnished by the foreign shipper for the use of the collector at the port of entry shall be in the following form:

I, _____, of _____, do hereby certify that to the best of my knowledge and belief the substantial containers and holders mentioned in (the annexed invoice) (invoice No. _____ of _____, 19__)* are of the manufacture of _____ and were exported from the United States at the port of _____, per S.S. _____ on _____, 19__, and that the same are being returned to the United States (empty) (filled with _____) (holding _____).*

_____
Shipper

*Cross out inapplicable words.

(d) The collector, after verification of the foreign shipper's certificate with the records of the collector at the port of exportation in this country, shall allow free entry to the extent the basis for such allowance is verified. The procedure in the last two sentences of § 10.6 (c) shall be applicable.

(e) If claim for exemption from duty for such containers or holders of foreign production previously imported duty paid is made at the time of entry, the certificate of the foreign shipper may be accepted if produced at any time prior to the liquidation of the entry.

(f) When such containers or holders of foreign production previously imported duty paid are reimported empty, they may be admitted without entry if readily identifiable as having been previously imported duty paid.

§ 10.8 Articles exported for repairs, alterations, or processing.

(a) For the purposes of item 806.20, Tariff Schedules of the United States,[6] the term "repairs or alterations" shall be held to mean restoration, change, addition, renovation, cleaning, or other treatment which does not destroy the identity of the article exported or create a new or different article.

---

[5] Cloth boards of domestic manufacture are conditionally free of duty under schedule 8, part 1, Tariff Schedules of the United States. See footnote 1 of this part.

[6] *"Articles repaired, altered, processed, or otherwise changed in condition abroad.*— The following provisions apply only to items 806.10, 806.20, and 806.30:

"(a) The value of repairs, alterations, processing, or other change in condition outside the United States shall be—

"(i) the cost to the importer of such change; or

"(ii) if no charge is made, the value of such change, as set out in the invoice and entry papers; except that, if the appraiser concludes that the amount so set out does not represent a reasonable cost or value, then the value of the change shall be determined in accordance with section 402 or 402a of this Act.

"(b) No appraisement of the imported article in its changed condition shall be required unless necessary to a determination of the rate or rates of duty applicable to such article.

"(c) The duty upon the value of the change in condition shall be at the rate which would apply to the article itself, as an entirety without constructive separation of its components, in its condition as imported if it were not within the purview of this subpart. If the article, as returned to the United States, is subject to a specific or compound rate of duty, such rate shall be converted to the ad valorem rate which when applied to the full value of such article determined in accordance with section 402 or 402a of this Act would provide the

(b) Three conditions are required under item 806.30, Tariff Schedules of the United States:

(1) The article sent abroad for further processing must be an article of metal (except precious metal) manufactured in the United States, or manufactured abroad and subjected to a process of manufacture in the United States.

(2) The article must be subjected to a further processing abroad; and

(3) The returned article must be one which is to be subjected to further processing after return to the United States.

(c) Articles may not be entered under the provisions of item 806.20 or item 806.30, Tariff Schedules of the United States, if they come within the purview of schedule 8, part 1B, headnote 1, Tariff Schedules of the United States.

(d) Before the exportation of any article to be subject on return to the United States to duty on the value of repairs, alterations, or processing effected abroad, as provided for in item 806.20 or item 806.30, Tariff Schedules of the United States, a declaration and application shall be filed in duplicate on customs Form 4455 by the owner or exporter with the collector of customs or appraiser of merchandise at a time before the departure of the exporting conveyance which will permit an examination of the article.

(e) In the case of articles of metal (except precious metal) which may be claimed dutiable on the value of processing under item 806.30, Tariff Schedules of the United States, a statement shall be included on the reverse side of customs Form 4455 by the exporter or owner substantially as follows:

The articles described in this certificate were manufactured in the United States by ----------; or if of foreign
(Name and address)
origin, were subjected to ----------
(Show processes of
----
manufacture, such as, molding, machining, ---------- in the United States by
casting, etc.)

(Name and address)

The articles in their changed condition will be returned for further processing by
----
(Name and address, if known)

(f) The applicant shall be notified on customs Form 4455 of the place to which he shall deliver the articles for examination. All expense in connection with the delivery of the articles, cording, sealing, marking, and transfer to the exporting conveyance shall be borne by the exporter. The exportation of the articles shall be under customs supervision, except in the case of exportation by mail of any article identifiable by the manufacturer's mark or number. A photograph or other means of identification shall be furnished when required by the customs examining officer.

(g) When the report of the customs officer showing the examination of the articles and their lading on the exporting conveyance or delivery for mailing has been endorsed on the Form 4455 covering the articles, the duplicate copy of such form shall be delivered to the exporter, and the original shall be filed in the collector's office.

(h) When articles other than those exported by mail or parcel post are examined and registered at one port and exported for repairs, alterations, or processing through another port, they shall be forwarded to the port of exportation under a transportation and exportation entry.

(i) There shall be filed in connection with an entry covering articles entered under the provisions of item 806.20 or 806.30, Tariff Schedules of the United States, a statement of the person who performed such repairs, alterations, or processing in substantially the following form:

(Place and date)

I, ----------, declare that the articles herein specified are to the best of my knowledge and belief the articles which, in the condition in which they were exported from the United States, were received by me (us) on ----------, 19----, from ----------;
(Name and address of owner or exporter in the United States)

that they were received by me (us) for the sole purpose of being repaired, altered, or processed; that only the repairs, alterations, or processing described below were effected by me (us); that the full cost or (when no charge is made) fair market value of such repairs, alterations, or processing and the value of the articles after repair, alteration, or processing are correctly stated below; and that no substitution whatever has been made to replace any of the articles originally received by me (us) from the owner or exporter thereof mentioned above.

Marks and numbers	Description of articles and of repairs, alterations, or processing	Full cost or (when no charge is made) fair market value of repairs, alterations, or processing	Total value of articles after repairs, alterations, or processing

---------- ----------
(Date) (Signature)

---------- ----------
(Address) (Capacity)

(j) There shall be filed in connection with the entry the certificate of registration (customs Form 4455) and a declaration made by the consignee, owner, or an agent having knowledge of the facts that the articles entered in their repaired, altered, or processed condition are the same articles covered by the certificate of registration. This declaration shall also show that the full cost or (when no charge is made) fair market value of the repairs, alterations, or processing is correctly stated in the entry. Where articles of metal (not including any precious metal) are claimed to be subject to the provisions of item 806.30, Tariff Schedules of the United States, there shall be included a concise statement as to the nature of the processing performed outside the United States immediately prior to the current importation and as to the processing to be performed thereafter in the United States, showing the name and address of the processor who will do the subsequent processing. When articles are exported and registered on a customs Form 4455, as provided for in this section, and the articles are reimported at a port other than the port from which exported, the duplicate Form 4455 may be used in making entry at such port of reimportation. Where entry at such port is to be made for only a portion of the merchandise covered by the duplicate Form 4455, the collector may make an extract for use at his port and transmit the duplicate Form 4455 with notation of the extract to the collector at the port of exportation. With respect to additional entries to be made at the same or other ports of reimportation, the collector at the port of exportation (where the original Form 4455 is filed) will, upon request by the importer or the collector at the port of reimportation, issue to the collector at the port of reimportation, an extract of Form 4455 for use in making entry at that port.

(k) In any case where an imported article was exported for repairs, alterations, or processing without compliance with the registration requirements of this section, the collector may waive such evidence if he is satisfied that the returned merchandise is entitled to entry under item 806.20 or item 806.30, and that the failure to comply with the registration requirements was due to inadvertence, mistake, or inexperience, and not to negligence or bad faith. Collectors may, in their discretion, also waive the registration requirements of this section prior to exportation of the articles upon application in writing by an exporter-importer located within their district when it is indicated that the duty on the merchandise would be less than $25 if not within the purview of item 806.20 or item 806.30, and it is indicated that the shipment on its return to the United States will be covered by a mail or other informal entry. Customs Form 4455, appropriately modified, may be used by collectors in issuing the waiver.

(l) Collectors shall require at the time of entry a deposit of estimated duties based upon the full cost or fair market value, as the case may be, of the repairs, alterations, or processing. The cost or fair market value, as the case may be, of the repairs, alterations, or processing outside the United States

---

same amount of duties as the specific or compound rate. In order to compute the duties due, the ad valorem rate so obtained shall be applied to the value of the change in condition made outside the United States". (Schedule 8, part 1B, headnote 2, Tariff Schedules of the United States.)

"Articles returned to the United States after having been exported to be advanced in value or improved in condition by any process of manufacture or other means:

* * * * *

"Item 806.20 Articles exported for repairs or alterations * * *

"Item 806.30 Any article of metal (except precious metal) manufactured in the United States or subject to a process of manufacture in the United States, if exported for further processing, and if the exported article as processed outside the United States, or the article which results from the processing outside the United States, is returned to the United States for further processing * * * " (Items 806.20 and 806.30, Tariff Schedules of the United States.)

which is to be set forth in the invoice and entry papers as the basis for the assessment of duty under item 806.20 or 806.30, shall be limited to the cost or value of the repairs, alterations, or processing actually performed abroad and shall not include any of the expenses incurred in this country, whether by way of engineering costs, preparation of plans or specifications, furnishing of tools or equipment for doing the repairs, alterations or processing abroad or otherwise.

§ 10.9 Books bound abroad.

The provisions of § 10.8 with respect to articles exported for repairs or alterations shall be applicable in the case of books of domestic manufacture which have been advanced in value or improved in condition abroad and returned to the United States.[7]

§ 10.10 Newsreel films.

Where free entry is claimed for newsreel films under the provisions of item 724.05, Tariff Schedules of the United States,[8] there shall be furnished in connection with the entry a statement of the cameraman, shipper, or other person having knowledge of the facts, identifying the films with the invoice and stating that the basic films have to the best of his knowledge and belief been exposed abroad and that they are shipped for use as newsreel of current events abroad. The invoice shall state the footage and title of each subject.

HOUSEHOLD EFFECTS

§ 10.11 Declaration.

(a) When household effects[9] are claimed to be free of duty under item 810.10 Tariff Schedules of the United States[10] a declaration of the owner on customs Form 3297 in the case of a returning resident of the United States, or customs Form 3299 in any other case, shall be required to support the claim for free duty.

(b) If it is impracticable to produce such declaration at the time of entry, the consignee may give a bond on customs Form 7551 or 7553 for the production of the owner's declaration within 6 months.

§ 10.12 Use abroad.

(a) In order to obtain free entry for household effects under the provisions of item 810.10, Tariff Schedules of the United States, the required use of the effects abroad for 1 year must be proven to the satisfaction of the collector,[11] who may, in his discretion, require evidence other than the declaration of the applicant.

(b) Household effects used abroad not less than 1 year by a family of which the importer was a resident member for not less than 1 year during such period of use may be passed free of duty, whether or not the importer owned the effects at the time of such use.

(c) The free entry of household effects under item 810.10, Tariff Schedules of the United States shall be allowed to residents of the United States as well as to nonresidents.

EFFECTS OF CITIZENS DYING ABROAD; TOOLS OF TRADE

§ 10.14 Effects of citizens dying abroad; procedure.

(a) Articles claimed to be free of duty under item 815.00, Tariff Schedules of the United States,[14] as the effects of citizens of the United States dying abroad shall be entered in accordance with the provisions of § 8.50 of this chapter or if not exceeding $250 in value, entry may be permitted under § 8.51.

(b) The collector shall require in connection with the entry the written statement of a person having knowledge of the facts or otherwise satisfy himself as to the citizenship of the deceased owner of the effects at the time of his death.

§ 10.15 Tools of trade.

When professional books, implements, instruments, or tools of trade, occupation, or employment are claimed to be free of duty under item 811.10[15] or item 810.20,[16] Tariff Schedules of the United States, a declaration of the emigrant or returning individual shall be required to support the claim of free entry. The declaration shall be on customs Form 3299 if the declarant is an emigrant or nonresident returning from abroad, and on customs Form 3297 if the declarant is a returning resident of the United States, except that, as to any such articles claimed to be free of duty under the said item 810.20, an oral declaration of the returning individual may be accepted in lieu of a written declaration.

PASSENGERS' BAGGAGE[17]

§ 10.16 Status of passengers.

(a) Persons arriving from foreign countries shall be divided into two classes for customs purposes: (1) Residents of the United States returning from abroad, and (2) all other persons, hereinafter referred to as nonresidents.

(b) Citizens of the United States, or persons who have formerly resided in the United States, shall be deemed to be residents thereof returning from abroad within the meaning of "residents" as used in schedule 8, part 2A, Tariff Schedules of the United States, in the absence of satisfactory evidence that they have established a home elsewhere. The residence of a wife shall be deemed to be that of her husband unless satisfactory evidence is presented that the wife has established a separate residence elsewhere. The residence of a minor child shall be presumed to be that of his parents.

(c) Any person arriving in the United States who is not a resident of the United States or who, though a resident of the United States, is not returning from abroad shall be treated for the purposes of the regulations in this part as a nonresident.

§ 10.17 Exemptions for returning residents.

(a) *Personal and household effects taken abroad.* Each returning resident is entitled under item 813.10 and schedule 8, part 2, headnote 1, Tariff

---

[7] "Articles returned to the United States after having been exported to be advanced in value or improved in condition by any process of manufacture or other means:

"Books manufactured in the United States [are subject to] a duty upon the value of the change in condition (see headnote 2 of this subpart)". (Item 806.10, Tariff Schedules of the United States.)

[8] "Newsreels, not developed, of current events abroad * * *." (Item 724.05, Tariff Schedules of the United States.)

[9] The free entry of household effects under item 810.10, Tariff Schedules of the United States is limited to such as are similar to books, libraries, furniture, carpets, paintings, tableware, and other usual household furnishings. Automobiles, horses, carriages, sleighs, boats, and similar articles, and wines, provisions, and other consumable supplies do not constitute similiar household effects within the meaning of item 810.10, Tariff Schedules of the United States. Articles such as office safes and office furniture used abroad in business pursuits are not entitled to free entry as household effects.

[10] "Books, libraries, usual and reasonable furniture, and similar household effects, if actually used abroad by him or by him and his family not less than one year, and not intended for any other person, or for sale * * *." (Item 810.10, Tariff Schedules of the United States.)

[11] The year of use need not immediately precede the time of importation nor need it be continuous.

As a general rule, household effects arriving more than 10 years after the last arrival of the importer in the United States from the country in which the effects were used should not be admitted free under item 810.10, Tariff Schedules of the United States. If, however, the collector is satisfied from the importer's explanation that the effects were unavoidably detained beyond the 10-year period he may admit them to free entry upon the filing of a declaration on customs Form 3297 in the case of a returning resident of the United States or customs Form 3299 in any other case. In no case shall free entry be allowed under item 810.10, Tariff Schedules of the United States when a period of 25 years or more has elapsed since the last arrival of the importer in the United States from the country in which the effects were used. (T. D.'s 38668, 40174, 41985)

[14] "Personal and household effects, not stock in trade, the title to which at the time of importation is in the estate of a citizen of the United States who died abroad * * *." (Item 815.00, Tariff Schedules of the United States.)

[15] "Articles by or for the account of any person emigrating from a foreign country to the United States:

"Professional books, implements, instruments, and tools of trade, occupation, or employment (not including theatrical scenery, properties, or apparel, and not including articles for use in any manufacturing establishment, for any other person, or for sale), owned and used by him abroad * * *." (Item 811.10, Tariff Schedules of the United States.)

[16] "Articles imported by or for the account of any person arriving in the United States from a foreign country: * * *

"Professional books, implements, instruments, and tools of trade, occupation, or employment, which have been taken abroad by him or for his account * * *." (Item 810.20, Tariff Schedules of the United States.)

[17] "The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of— * * *

"(6) Articles carried on the person or contained in the baggage of a person arriving in the United States; * * *." (Tariff Act of 1930, sec. 498 (a); 19 U. S. C. 1498 (a))

Schedules of the United States,[21] to bring in free of duty and internal-revenue tax all personal and household effects which he took abroad. If any such effect has been advanced in value or improved in condition while abroad by repairs (including cleaning) not merely incidental to wear or use while abroad, or by alterations (including additions) which did not change the identity of the article, the cost or value of such repairs or alterations is subject to duty, unless all or part of such cost or value is covered by an allowance of the $200 or $300 exemption hereinafter mentioned. An effect taken abroad and there changed into a different article is dutiable at its full value when returned to the United States, unless covered in whole or in part by some provision for free entry.

(b) *Articles acquired abroad.* Subject to the limitations and conditions hereinafter stated, each returning resident is entitled under item 813.30, 813.31, or 813.32, and schedule 8, part 2, headnote 1, Tariff Schedules of the United States[22] to bring in free of duty and internal-revenue tax up to but not exceeding $200, and in appropriate cases up to but not exceeding an additional $300, in value of articles for his personal or household use which were purchased or otherwise acquired abroad by him merely as an incident of the foreign journey from which he is returning. These exemptions do not apply to articles intended for sale or acquired on commission, i. e., for the account of another person, with or without compensation for the service rendered.

(c) *Gifts.* An article acquired abroad by a returning resident and imported by him to be disposed of after importation as his bona fide gift is for the personal use of the importer. Articles forwarded to a donee by a donor who is abroad are not imported by or for the account of the donor and are not allowed any exemption to which he may become entitled. (See § 8.3 (c) of this chapter as to gift shipments valued not over $10.)

(d) *Tobacco products, alcoholic beverages, and foodstuffs.* Cigarettes, manufactured tobacco, and foodstuffs may be included in the exemptions to which a returning resident is entitled, but not more than 100 cigars nor an aggregate of over 1 wine gallon of alcoholic beverages may be included in such exemptions. If a returning resident is entitled to both the $200 and the $300 exemptions, any cigars or alcoholic beverages entitled to exemption shall be included in the $200 exemption. If the resident is not entitled to the $200 exemption (by reason of having claimed that exemption within the 30 days immediately preceding his arrival) but is entitled to the $300 exemption, not more than the above-stated quantities of cigars and alcoholic beverages may be allowed free entry under the $300 exemption if the resident did not claim exemption for any such articles under the last exemption he received under item 813.31, Tariff Schedules of the United States. The maximum of 1 wine gallon of alcoholic beverages may include more than one kind of beverage.

(e) *Cumulation of $200 and $300 exemptions.* (1) When all the applicable conditions of each exemption are met, both the $200 and $300 exemptions may be allowed to one person on one return. Moreover, the $300 exemption may be allowed when its conditions are satisfied and when it is in addition to an allowance under the $200 exemption within the preceding 30-day period.

(2) In each case in which both exemptions are allowed on one return, the declarant may designate accompanied or unaccompanied goods listed on his declaration which would not be entitled to application of the $300 exemption (alcoholic beverages and cigars) for allowance of the $200 exemption. Subject to this exception, in each such case the $200 exemption shall be applied first[23] and to the value of the articles subject to the highest rates, and the additional $300 exemption shall be applied to the value of articles subject to the next highest rates, including any amount in excess of $200 pertaining to articles covered in part by the $200 exemption. This rule shall be applied to articles accompanying the returning resident and the same rule shall be applied separately to each unaccompanied shipment covered by his declaration. If an internal-revenue tax is applicable, it shall be combined with the duty in determining which rates are highest.

(f) *Family grouping of exemptions.* Each member of a family is entitled to the $200 or $300 exemption, or both, subject to the conditions prescribed in schedule 8, part 2, Tariff Schedules of the United States. Articles belonging to one person cannot be included in the $200 or $300 exemption of another person, except that when members of a family residing in one household travel together on their return to the United States, the $200 or $300 exemption, or both, to which the several members of the family may be entitled may be grouped and allowed without regard to which member is the owner of any of the articles. A grouped exemption shall not include any exemption for a family member not entitled to it in his own right, nor shall a grouped exemption be applied to any property of such a member. The term "members of a family residing in one household," as used herein, shall include all persons, regardless of age, related by blood, marriage, or adoption, who lived together in one household at their last permanent residence and who intend to live together in one household after their return to the United States. No exemption allowable to a resident servant accompanying the family shall be included in the family grouping.

(g) *Length of stay abroad.* In the case of articles acquired elsewhere than in Mexico, the $200 exemption shall not be allowed unless the returning resident has remained beyond the territorial limits of the United States for a period of not less than 48 hours. With respect to articles acquired in Mexico, the $200 exemption may be allowed without regard to the length of time the returning resident has remained outside the territorial limits of the United States, unless the resident returns through a port as to which there is in effect a special regulation or instruction requiring that the returning resident, in order to obtain the benefit of the $200 exemption for such articles, shall have remained beyond the territorial limits of the United States for such period, not to exceed 24 hours, as shall be specified in the special regulation or instruction.[24] The $300 exemption shall not be allowed unless the returning resident has remained outside the territorial limits of the United States for a period of not less than 12 days.

(h) *Frequency of allowances.* (1) The $200 exemption shall not be granted to a returning resident who has taken advantage of such exemption within the 30-day period immediately preceding his

---

[21] "All personal and household effects taken abroad by him or for his account * * *." (Item 813.10, Tariff Schedules of the United States.)

"1. Any article exempted under this part from the payment of duty shall be exempt also from the payment of any internal revenue tax imposed upon or by reason of importation." (Schedule 8, part 2, headnote 1, Tariff Schedules of the United States.)

[22] "Other articles (including not more than 1 wine gallon of alcoholic beverages and not more than 100 cigars) acquired abroad as an incident of the journey from which he is returning, for his personal or household use, but not imported for the account of any other person nor intended for sale, if declared in accordance with regulations of the Secretary of the Treasury:

"Articles not over $200 in aggregate value, if such person arrived from a contiguous country which maintains a free zone or free port, or arrives from any other country after having remained beyond the territorial limits of the United States for a period of not less than 48 hours, and in either case has not claimed an exemption under this item (813.31) within the 30 days immediately preceding his arrival * * *."

"In addition, articles not over $300 in aggregate value, if such person has remained beyond the territorial limits of the United States for a period of not less than 12 days and has not claimed an exemption under this item (813.32) within the 6 months immediately preceding his arrival * * *." (Items 813.30, 813.31, 813.32, Tariff Schedules of the United States.)

[23] When the $200 exemption has been so applied, another claim for the $200 exemption within the following 30 days cannot be allowed. See § 23.5 (c) of this chapter.

[24] "2. In the case of persons arriving from a contiguous country which maintains a free zone or free port, if the Secretary of the Treasury deems it necessary in the public interest and to facilitate enforcement of the requirement that the exemption in item 813.31 shall apply only to articles acquired as an incident of the foreign journey, he shall prescribe by regulation or instruction, the application of which may be restricted to one or more ports of entry, that such exemption shall be allowed only to residents who have remained beyond the territorial limits of the United States for not less than a specified period, not to exceed 24 hours, and, after the expiration of 90 days after the date of such regulation or instruction, allowance of the said exemption shall be subject to the limitation so prescribed." (Schedule 8, part 2A, headnote 2, Tariff Schedules of the United States.) There is no special regulation providing a minimum absence requirement under this provision.

return to the United States, and the $300 exemption shall not be granted to a returning resident who has taken advantage of such $300 exemption within the 6-month period immediately preceding his return to the United States.[25] The date of the returning resident's latest prior arrival on which he declared articles for allowance of the $200 or $300 exemption shall be deemed the date he took advantage of the applicable exemption, notwithstanding that articles admitted under either exemption may have arrived before or after such latest arrival.

(2) A returning resident who has received a total exemption of less than $200 under the $200 exemption, or a total exemption of less than $300 under the $300 exemption, in connection with his return from one journey is not entitled to apply the remainder of either amount to articles acquired abroad on any previous or subsequent journey. Articles acquired on one journey and left in a foreign country cannot be allowed any exemption accruing upon the importer's return from a subsequent journey.

(i) *Computation of time requirements.* (1) The 24-hour or 48-hour period a returning resident must have been abroad to be entitled to the $200 exemption shall be computed exactly. For example, a resident leaving United States territory at 1:30 p. m. on June 1 would complete the 24-hour period at 1:30 p. m. on June 2 and the 48-hour period at 1:30 p. m. on June 3.

(2) The 12-day period a returning resident must have remained outside United States territory to be entitled to the $300 exemption shall be computed by excluding the day of arrival and counting the day of departure as a full day, irrespective of the time of either day at which the traveler crossed the land border or 3-mile limit at sea. Thus, a resident departing from such territory at 1:30 p. m. on June 1 would meet the 12-day requirement if he remained abroad until any time after midnight of June 12.

(3) The 30-day period immediately preceding the resident's return shall be computed by excluding the day of arrival and counting backward 30 days. In the case of an arrival on May 28, the resident would not be entitled to the $200 exemption if he had taken advantage of such exemption on or after the last preceding April 28.

[25] See footnote 22, appended to § 10.17 (b).

(4) The 6-month period immediately preceding the resident's return shall be computed by excluding the day of arrival and counting backward 6 months. In the case of an arrival on July 28, the resident would not be entitled to the $300 exemption if he had taken advantage of such exemption on or after the last preceding January 28.

(j) *Arrival incidental to further foreign travel.* A resident who enters the United States merely as an incident of foreign travel and will continue his foreign travel before finally returning to the United States from the continuous trip shall not be required to clear through customs any articles he has acquired, or had repaired or altered, while abroad. Such articles may be left in customs custody, shipped in bond, or exported directly from customs custody in order that the resident may declare them, and possibly other later acquired articles, upon his final return to the United States from the continuous trip. If, however, the traveler fails to advise the customs officer of the incidental character of such an entry or for other reason declares any articles for allowance of the $200 or $300 exemption, such declaration will start the running of the respective period or periods during which a further allowance cannot be granted.

(k) *Unaccompanied articles.* It is not necessary that articles accompany a resident at the time of his return to the United States to be within such exemptions as are applicable. See § 10.20(b). However, customs officers shall apply the exemptions only to articles before them for examination, and the application of an exemption to unaccompanied articles shall be finally determined only after they have been imported and the importer has performed the acts required of him for their customs clearance. If any allowance of the exemptions is to be claimed in respect of any articles not cleared at the time of a resident's return, whether such articles have already arrived, will arrive later, or are being shipped in bond to another port, they must be declared in writing to a customs officer. Such declaration of articles accompanying the resident shall be made at the time of the resident's return to the United States. A declaration for articles not accompanying the resident on his return should be made by him in writing at the time and place of his return, but if satisfactory reasons are given to the collector for failure to so declare such articles, a written declaration may be accepted, either at the port of clearance of the articles or at the port of the resident's return, for such articles within one year after the return. An application to make such supplemental declaration either by letter or on customs Form 6059, 6063 or 6063–B, appropriately modified, shall be accompanied by any invoices, receipts, and any other available pertinent data to aid the collector in determining whether the articles were acquired abroad by the claimant as an incident of a journey made by him and are for his personal or household use.

(l) *Replacements.* An article furnished by a foreign supplier to replace a like article of comparable value previously exempted from duty under item 813.31 or 813.32 Tariff Schedules of the United States, shall be allowed free entry if the article previously exempted is found by the importer to be unsatisfactory and is returned to customs custody and exported under customs supervision at the expense of the importer within 60 days after its importation.[25a] In any case where the importer has failed to return the unsatisfactory article to customs custody for supervision of exportation, the collector may allow free entry of the replacement article if he is satisfied that the unsatisfactory article was timely exported and that the failure to return it to customs custody was due to inadvertence or lack of experience in customs matters and was without willful intent to avoid customs supervision. The requirement that the original article be exported under customs supervision does not apply when a duplicate article is furnished by a foreign supplier as a replacement for an article declared for entry under the $200 or $300 exemption and found by the customs inspector or other examining officer to be so damaged as to constitute a nonimportation (§ 15.10 of this chapter). In such a case the duplicate replacement shall be considered to have been acquired abroad for the purposes of the $200 or $300 exemption provision, provided no charge is made to the importer for such article.

(m) *Sale.* An article brought in under the $200 exemption and subsequently sold is not dutiable or subject to forfeiture by reason of the sale thereof, if the returning resident actually acquired and imported the article for his bona fide household or personal use and not for sale. If any article admitted free of duty under the $300 exemption is sold within 3 years after the date of its importation without prior payment to a collector of customs of the duty which would have been payable at the time of entry if the article had been entered without the benefit of item 813.32, Tariff Schedules of the United States, such article, or its value (to be recovered from the importer), shall be subject to forfeiture. A sale pursuant to a judicial order or in liquidation of the estate of a decedent shall not be a basis for any liability for duty or forfeiture under schedule 8, part 2A, headnote 1, Tariff Schedules of the United States.[26]

(n) *Rented automobiles.* Under the provisions of item 813.25, Tariff Schedules of the United States,[26a] an automobile rented by a resident of the United States while abroad may, without the payment of duty, be brought into the United States for a temporary period not to exceed 30 days by or on behalf of such

[25a] "Any article imported to replace a like article of comparable value previously exempted from duty under item 813.31 or 813.32, if the article previously exempted shall have been exported, under such supervision as the Secretary may prescribe, within 60 days after its importation because it was found by the importer to be unsatisfactory * * *." (Item 813.40, Tariff Schedules of the United States.)

[26] "1. If * * *

"(b) any article which has been exempted from duty under item 812.30 is sold within 1 year after the date of importation, or

* * * * * *

without prior payment to the United States of the duty which would have been payable at the time of entry if the article had been entered without the benefit of any of these items, such article, or its value (to be recovered from the importer), shall be subject to forfeiture. An article sold pursuant to a judicial order or in liquidation of the estate of a decedent shall not be subject to the provisions of this note." (Schedule 8, part 2A, headnote 1, Tariff Schedules of the United States.)

[26a] "Automobiles rented by any resident of the United States while abroad and imported for the transportation of such resident, his family, and guests, and such incidental carriage of articles as may be appropriate to his personal use of the automobile * * *." (Item 813.25, Tariff Schedules of the United States.)

resident for the transportation of such resident, his family and guests, and such incidental carriage of articles as may be appropriate to his personal use of the automobile. No entry or security for exportation shall be required.

NOTE: For suspension of the above provisions which are inconsistent or in conflict with temporary Customs regulations, see § 10.17a).

§ 10.17a Temporary regulations applicable during the effective period of item 915.30, Tariff Schedules of the United States.

(a) *Reduced exemptions.* During the effective period of item 915.30, the $200 exemption permitted by item 813.31, Tariff Schedules of the United States is reduced to $100 with the exception of the exemption permitted to residents returning from the Virgin Islands (see paragraph (e) of this section). The additional $300 exemption permitted by item 813.32 of the said schedules is suspended during the effective period of item 915.30.

(b) *Arrivals at seaports or by air.* A resident of the United States returning at a seaport or by air from any foreign country shall itemize on customs Form 6063, or on customs Form 6063–B where such form is used, all articles acquired abroad, except that a resident returning by air from Canada shall be subject to the procedure prescribed for residents returning at border ports otherwise than by air.

(c) *Arrivals at Canadian and Mexican border ports.* (1) A resident of the United States returning otherwise than by air at ports on the Canadian or Mexican border may be permitted to declare orally articles acquired abroad for his personal or household use if the total value of such articles does not exceed $100 unless there are articles which do not accompany the resident. In the latter instance, a written declaration shall be required for all articles acquired abroad.

(2) A family group traveling together may be permitted to declare orally articles acquired abroad for the personal or household use of any member of the family if the value of such articles does not exceed an amount totaling more than $100 times the number of members of the family group.

(3) A written declaration on customs Form 6059 shall be required for all articles acquired abroad for personal or household use of the returning resident where the total value of the articles exceeds the value of articles which may be permitted to be declared orally.

(4) A written declaration on customs Form 6059 shall be required for articles subject to duties or duties and taxes, such as alcoholic beverages in excess of the quantity allowed under the exemption or articles not brought in for the personal or household use of the resident.

(d) *Miscellaneous.* Individual items not exceeding $5 in value per item may be grouped as "Miscellaneous" up to but not exceeding a total value of $50 where a written declaration is required, unless such articles are not accompanying the resident, in which case, they shall be itemized on the written declaration.

(e) *Virgin Islands of the United States.* Residents of the United States who have visited the Virgin Islands of the United States, whether returning directly or indirectly from those Islands, shall present a written declaration on customs Form 6063–C for all articles acquired in the Virgin Islands or elsewhere. A resident returning directly or indirectly from the Virgin Islands of the United States before April 1, 1964, shall be allowed an exemption up to $200 for articles acquired for personal or household use, but not more than $100 of the exemption shall be applied to articles not acquired in the Virgin Islands. The exemption for articles acquired in the Virgin Islands of the United States is not conditioned upon any length of absence from the United States. Not more than one wine gallon of alcoholic beverages and not more than 100 cigars may be included in the $200 exemption.

NOTE: Temporary regulations of § 10.17a suspend provisions of §§ 10.17, 10.19, and 10.20 which are inconsistent or in conflict therewith.

§ 10.18 Exemptions for nonresidents.

(a) *Personal effects.* A nonresident (including any resident who is not returning), regardless of age, arriving in the United States is entitled under item 812.10, Tariff Schedules of the United States,[27] to entry free of duty and internal-revenue tax for his wearing apparel, articles of personal adornment, toilet articles, and similar personal effects. This exemption applies only to articles which were actually owned by the nonresident and in his possession abroad at the time of, or prior to, his departure for the United States and which are appropriate for his own personal use and intended only for such use and not for any other person nor for sale. "Similar personal effects" include all articles intended and appropriate for the personal use of the nonresident while traveling, such as hunting and fishing equipment, wheelchairs for invalids or crippled persons, pet and hunting dogs, and the like. Articles to be given by the importer to another person are not free under item 812.10, Tariff Schedules of the United States.

(b) *Gifts.* A nonresident who intends to remain in the United States for not less than 72 hours is entitled, under item 812.25, Tariff Schedules of the United States,[23] to claim as free of duty and internal revenue tax not over $100 in value of articles (for limitations on alcoholic beverages and cigars, see paragraph (f) of this section) which accompany him and are to be disposed of by him as bona fide gifts. This exemption for gifts may be allowed only if such person has not claimed the exemption within the immediately preceding six months.

(c) *Vehicles.* Nonresidents are entitled under item 812.30, Tariff Schedules of the United States,[23a] to entry free of duty and internal revenue tax for automobiles, trailers, aircraft, motorcycles, bicycles, baby carriages, boats, horsedrawn conveyances, horses, and similar means of transportation, and the usual equipment accompanying the foregoing, if imported in connection with the arrival of the nonresident and to be used in the United States only for the transportation of such nonresident, his family and guests, and such incidental carriage of articles as may be appropriate to his personal use of the conveyance.

(d) *Articles carried through the United States.* An arriving nonresident who is in transit to a place outside United States customs territory may take with him through the United States customs territory for carriage to such place, without the payment of duty or internal revenue tax, as provided in item 812.40, Tariff Schedules of the United States,[23b] articles not exceeding $200 in aggregate value.

(e) *Sale.* If any jewelry or similar articles of personal adornment having a value of $300 or more which have been exempted from duty under item 812.10, Tariff Schedules of the United States, are sold within 3 years after the date of importation, or if any article which has been exempted from duty under item 812.30, Tariff Schedules of the United States is sold within 1 year after the date of importation, without prior payment to a collector of customs of the duty which would have been payable at the time of entry if the article had been entered without the benefit of said item 812.10 or item 812.30, such article, or its value (to be recovered from the importer), shall be subject to forfeiture in accordance with the provisions of schedule 8, part 2A, headnote 1, Tariff Schedules of the

---

[27] "Wearing apparel, articles of personal adornment, toilet articles, and similar personal effects; all the foregoing, if actually owned by and in the possession of such person abroad at the time of or prior to his departure for the United States, and if appropriate for his own personal use and intended only for such use and not for any other person nor for sale * * *." (Item 812.10, Tariff Schedules of the United States.)

[23] "Not exceeding $100 in value of articles (including not more than 1 wine gallon of alcoholic beverages and not more than 100 cigars) accompanying such person to be disposed of by him as bona fide gifts, if such person has not claimed an exemption under this item 812.25 within the 6 months immediately preceding his arrival and he intends to remain in the United States for not less than 72 hours * * *." (Item 812.25, Tariff Schedules of the United States.)

[23a] "Automobiles, trailers, aircraft, motorcycles, bicycles, baby carriages, boats, horsedrawn conveyances, horses, and similar means of transportation, and the usual equipment accompanying the foregoing; any of the foregoing imported in connection with the arrival of such person and to be used in the United States only for the transportation of such person, his family and guests, and such incidental carriage of articles as may be appropriate to his personal use of the conveyance * * *." (Item 812.30, Tariff Schedules of the United States.)

[23b] "Not exceeding $200 in value of articles accompanying such a person who is in transit to a place outside United States customs territory and who will take the articles with him to such place * * *." (Item 812.40, Tariff Schedules of the United States.)

United States." A sale pursuant to a

United States." A sale pursuant to a judicial order or in liquidation of the estate of a decedent is not a basis for any liability for duty or forfeiture under such provisions.

(f) *Tobacco products and alcoholic beverages.* (1) Fifty cigars, or 300 cigarettes, or 3 pounds of manufactured tobacco, and not exceeding 1 quart of alcoholic beverages, when brought in by an adult nonresident and not to be given to another person nor for sale or other commercial use, may be passed free of duty and internal revenue tax. This exemption for tobacco products may be applied proportionately; for example, to 25 cigars and 150 cigarettes, or to 25 cigars, 50 cigarettes and 1 pound of manufactured tobacco. This exemption for alcoholic beverages may be applied to more than one kind but not to an aggregate volume of more than 1 quart for one adult nonresident.

(2) A nonresident who is allowed the $100 gift exemption (see paragraph (b) of this section) may include not more than 1 wine gallon of alcoholic beverages and not more than 100 cigars under such exemption from duty and internal revenue tax, provided such articles are accompanying him and are to be disposed of by him only as bona fide gifts.

---

[2] "1. If—

"(a) any jewelry or similar articles of personal adornment having an aggregate value of $300 or more which have been exempted from duty under item 812.10 or any article which has been exempted from duty under item 813.32 is sold within 3 years after the date of importation, or

"(b) any article which has been exempted from duty under item 812.30 is sold within 1 year after the date of importation, or

"(c) any automobile exempted from duty under item 813.25 is used otherwise than for the purpose therein expressed or is not returned abroad within the time and manner prescribed by the Secretary of the Treasury, without prior payment to the United States of the duty which would have been payable at the time of entry if the article had been entered without the benefit of any of these items, such article, or its value (to be recovered from the importer), shall be subject to forfeiture. An article sold pursuant to a judicial order or in liquidation of the estate of a decedent shall not be subject to the provisions of this note." (Schedule 8, part 2A, headnote 1, Tariff Schedules of the United States.)

§ 10.19 Declaration and entry.

(a) *Declaration required.* All articles brought into the United States by any individual shall be declared to a customs officer. The declaration may be made to a customs officer at the port of first arrival in the United States or on a train or ferry en route to the United States on which such an officer is assigned for that purpose. The declaration may be submitted to a United States customs officer stationed in a foreign country for that purpose if one is available and all the articles presented to him for inspection and clearance are within allowable exemptions.

(b) *Oral declarations.* Each arriving nonresident may make only an oral declaration if all the articles he has to declare are entitled to free entry under item 812.10, 812.20, 812.25, 812.30 or 812.40, Tariff Schedules of the United States, or are being admitted free of duty under section 321(a)(2)(B), Tariff Act of 1930, as amended, and each returning resident may make only an oral declaration if (1) he has no article in his possession on which duty or internal-revenue tax is collectible, (2) all articles for which any exemption is to be claimed in connection with his arrival accompany him at the time of his arrival and none is forwarded in bond, and (3) the aggregate of the value of all articles acquired abroad by him and of the cost or value of alterations and dutiable repairs made abroad to personal or household effects taken out and brought back by him (see § 10.17(a)) does not exceed $200; except that written declarations may be required generally or in respect of particular types of traffic if necessary at any seaport or airport to effect prompt and orderly clearance of passengers and their effects, and may be required in particular cases at any port if deemed necessary to protect the revenue.

(c) *Written declarations.* (1) Unless an oral declaration is accepted under paragraph (b) of this section, the declaration required by paragraph (a) of this section shall be in writing and in a form approved by the Commissioner of Customs. Except as required by § 10.22 (c), effects of a non-resident entitled to free entry under item 812.10, 812.20, 812.25, 812.30 or 812.40, Tariff Schedules of the United States and effects of a returning resident entitled to free entry under item 810.20 or 813.10, Tariff Schedules of the United States (other than automobiles and other vehicles of residents returning from non-contiguous countries), need not be itemized in written declarations.

(2) Written declarations for passengers arriving by sea shall be executed fully and deposited with the purser of the vessel not later than the day before the vessel will arrive in port.

(d) *Acknowledgment.* Each written declaration shall be acknowledged by the declarant before the customs officer who examines the baggage covered by the declaration.

(e) *Amendment.* (1) If, before examination of a passenger's baggage has begun, the fact that any article has not been declared is brought by the passenger to the attention of the examining officer, the passenger shall be permitted to add such article to his declaration.

(2) If, after examination of the baggage has begun but before any undeclared article is found, the passenger advises the examining officer that he has such article and the examining officer is satisfied that there was no fraudulent intent, the passenger shall be permitted to add the articles to his declaration.

(3) Under no circumstances shall a passenger be permitted to add any undeclared article to his declaration after such article has been discovered by the examining officer.

(f) *Value.* Opposite the description of each article required to be declared specifically in a written declaration the passenger shall state the price actually paid for the article, or its fair value if it was acquired otherwise than by purchase. A statement of price shall be in the currency of purchase or its equivalent in United States currency, and a statement of value shall be in the currency of the country in which the article was acquired or in United States currency. Due adjustment shall be made by the appropriate customs officer whenever the purchase price or value declared differs from the correct customs value, whether by reason of depreciation due to wear and use or for any other reason.

(g) *Family declarations.* One of a group of passengers who are members of the same family may declare for the entire group if all have the same residence status. Servants accompanying a family group shall not be included in the family declaration.

(h) *Merchandise.* Articles not personal in character, or which are intended for sale or are brought in on commission for another person, may be included in the baggage declaration of a resident or nonresident under the conditions specified in § 10.21 (e). If not so included, regular entry shall be required.

(i) *Regular entry.* Subject to any applicable exemption from entry requirements, articles imported as baggage but not passed under a baggage declaration or under the procedure provided for in § 10.20 shall be entered in the same manner as a cargo importation of like goods. In making regular entry for articles imported in baggage, the value of articles entitled to free entry under item 810.20 or 813.10, Tariff Schedules of the United States, shall be disregarded in determining whether formal or informal entry is required.

(j) *Examination in foreign territory.* (1) The baggage of returning residents may be examined at places in foreign territory where United States customs offices have been established for that purpose (see § 1.3 of this chapter). When the baggage of a returning resident is examined at such a place, and the resident will return to the United States via train or ferry, the declaration, after completion and presentation to the customs office, shall be returned to the declarant for surrender to the customs officer on the train or ferry, or to the customs officer at the port of return, in order that such customs officer may determine what exemption, if any, has already been allowed. When the baggage of a passenger traveling by air is examined in foreign territory, the baggage declaration shall be surrendered to the customs officer at the airport of departure for the United States prior to boarding the aircraft.

(2) When a declarant, whose baggage has been examined and passed in foreign territory in accordance with subparagraph (1) of this paragraph, subsequently acquires additional articles before he returns to the United States, the customs officer to whom the declaration is surrendered as provided for in subparagraph (1) of this paragraph may permit the amendment of that declara-

tion to include articles not previously declared.

(Sec. 498, 46 Stat. 728, as amended; 19 U. S. C. 1498)

NOTE: For suspension of the above provisions which are inconsistent or in conflict with temporary Customs regulations, see § 10.17a (26 F.R. 8070; 26 F.R. 8283; 27 F.R. 2285; 28 F.R. 9207).

§ 10.20 Unaccompanied shipments.

(a) *Effects and tools of trade.* When effects claimed to be free of duty under item 810.20, 812.10, 812.20, 812.30 or 813.10, Tariff Schedules of the United States, do not accompany the importer on his arrival in the United States or are forwarded in bond, a declaration of the importer on customs Form 3299 in the case of a nonresident, or on customs Form 3297 in the case of a returning resident, shall be required to support the claim for free entry, except that as to effects which are free of duty under item 810.20 or item 813.10, Tariff Schedules of the United States, an oral declaration of the importer may be accepted in lieu of a written declaration on Form 3297. If the collector is satisfied that an entry would serve no good purpose, none need be required, but evidence of ownership for customs purposes, such as a carrier's certificate or properly endorsed bill of lading, shall be required in connection with the declaration. Such exemption from entry may also be applied with respect to household effects or tools of trade entitled to free entry (see §§ 10.11 and 10.15 respectively) which are unaccompanied or forwarded in bond.

(b) *Articles acquired abroad by returning resident.* (1) The declaration of a returning resident shall be in writing if it covers articles which do not accompany him, or which are to be shipped in bond to another port for clearance, and such articles are entitled to free entry under the $200 or $300 exemption. Effects of the returning resident entitled to free entry under item 810.20 or item 813.10, Tariff Schedules of the United States (other than automobiles and other vehicles of residents returning from noncontiguous countries) need not be itemized in written declarations.

(2) Customs Form 3351 shall be issued to the returning resident for each shipment of declared articles not accompanying the resident upon arrival or to be shipped in bond to another port for clearance and for which a claim for free entry, in whole or in part, is likely to be made under the $200 or $300 exemption.

(3) Customs Form 3351 shall not be issued to a returning resident who has used his entire allowable exemption upon arrival, except for the replacement of an article to be exchanged as provided for in paragraph (c) of this section.

(4) Unaccompanied shipments, except those containing prohibited or restricted merchandise, shall be released free of duty immediately after examination upon the presentation of properly completed customs Form 3351 by the consignee or his agent, or if the shipment or shipping papers are accompanied by a release on customs Form 3351, except that the collector may withhold release of the shipment until the claim for exemption is verified.

(5) In any case where the importer of a shipment arriving otherwise than by mail, claims any part of a shipment duty free under the $200 or $300 exemption, but is unable to produce a release on customs Form 3351, he shall be issued a customs Form 3351; upon completion of this form, the shipment shall be treated in the manner set forth in subparagraph (4) of this paragraph. Such shipments covered by mail entries shall be treated as set forth in § 9.10 (c) of this chapter.

(6) All claims for exemptions on customs Form 3351 and on the reverse side of duplicate copies of mail entries shall be subject to verification in the manner prescribed by the Commissioner of Customs. When the collector finds that a false claim for exemption has been made with intent to defraud the revenue, he shall take action under section 592 of the Tariff Act of 1930, in accordance with § 23.6 of this chapter.

(7) No application of the $200 or $300 exemption to an unaccompanied or bonded shipment shall be allowed in any case until the collector at the port of clearance is satisfied that the articles for which the exemption is claimed were acquired by the claimant while abroad in accordance with item 813.30, 813.31 or 813.32, Tariff Schedules of the United States.

(c) *Replacements.* When any article declared by a returning resident is to be replaced under the provisions of § 10.17 (1), a release on customs Form 3351 shall be issued to the importer with appropriate instructions as to its use.

(Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

NOTE: For suspension of the above provisions which are inconsistent or in conflict with temporary Customs regulations, see § 10.17a (26 F.R. 8070; 26 F.R. 8283; 27 F.R. 2285; 28 F.R. 9207).

§ 10.21 Examination procedure; collection of duties and taxes.

(a) Customs officers shall not open baggage or other containers for the purpose of examination.[30] Any such baggage or other container which is not opened by the owner or his agent for examination and any vehicle with a locked compartment which the person in charge refuses to open shall be treated as unclaimed.

(b) The inspector who examines the baggage of any person arriving in the United States, including inspectors on trains or ferries, may examine and pass, without limitation as to value, all articles in such baggage or otherwise accompanying such person which are personal or household effects of such person and are free of duty under schedule 8, part 2A, Tariff Schedules of the United States, or under § 10.42, and paintings and other articles classifiable under item 765.05, 765.10, 765.15, 765.20, or 765.25, Tariff Schedules of the United States, and works of art which are the production of American artists temporarily residing abroad, provided for in item 765.30, Tariff Schedules of the United States, when accompanying the person who produced them, upon compliance with § 10.48 or § 10.50, as the case may be. The inspector may examine, determine the dutiable value of, collect duty on, and pass articles accompanying the arriving person which are for his personal or household use but are subject to duty, including articles imported by a nonresident to be disposed of by him as bona fide gifts. No special customs invoice shall be required for articles passed under this paragraph.

(c) The inspector may also examine, determine the customs value of, collect any duty due on, and pass articles properly listed on the baggage declaration which are not personal or household effects of the declarant, provided the aggregate customs value of such articles is not more than $250.

(d) In determining dutiable value under paragraph (b) or (c) of this section, the inspector shall apply the principles of section 402 or 402a, Tariff Act of 1930, as amended, and shall not regard the declared price or value as conclusive. He shall give due consideration to the condition of the articles at the time of importation, but he shall not make any allowance for wear and use in excess of 25 percent of the declared price or value of a worn or used article. A passenger who desires to claim a larger allowance may arrange for formal entry and appraisement of his goods.

(e) Articles not described in paragraph (b) of this section, having an aggregate value over $250 but not over $500, may be entered and cleared on a baggage declaration at the place of their arrival with a passenger, provided the articles are accompanied by a proper invoice if one is required, and provided it is practicable to make the required formal appraisement at that place. If the foregoing requirements are not satisfied, or if the value of such articles is over $500, regular entry shall be required.

(f) Whenever the customs officer deems it advisable, or at the request of the passenger, any or all of a passenger's baggage may be sent to the appraiser's store for examination or reexamination, in which case a receipt for such baggage shall be given on customs Form 6051.

(g) Passengers dissatisfied with the assessment of duty on their baggage may demand a reexamination, provided the articles have not been removed from customs custody.

(h) If reappraisement by the United States Customs Court is desired, the passenger must arrange for regular entry and formal appraisement of the articles in controversy, and thereafter make written application for reappraisement

[30] "All merchandise and baggage imported or brought in from any contiguous country, except as otherwise provided by law or by regulations of the Secretary of the Treasury, shall be unladen in the presence of and be inspected by a customs officer at the first port of entry at which the same shall arrive; and such officer may require the owner, or his agent, or other person having charge or possession of any trunk, traveling bag, sack, valise, or other container, or of any closed vehicle, to open the same for inspection, or to furnish a key or other means for opening the same." (Tariff Act of 1930, sec. 461; 19 U. S. C. 1461)

to the collector of customs

to the collector of customs within 30 days after the formal appraisement.

(i) The exemption from duty and internal revenue tax contemplated by section 321(a)(2)(B), Tariff Act of 1930, as amended,[a] may be applied to articles accompanying, and for the personal or household use (not including any business or commercial use of any kind) of, a person arriving in the United States who is not entitled to any exemption under item 812.25 or 813.20, Tariff Schedules of the United States. However, any exemption allowed under section 321(a)(2)(B) shall not be applied to articles subject to internal revenue tax other than cigarettes not in excess of 50, cigars not in excess of 10, manufactured tobacco not in excess of ½ pound, alcoholic beverages not in excess of 4 ounces, or alcoholic perfumery not in excess of 4 ounces, and shall not be applied to any article subject to internal revenue tax when an exemption is allowed such articles under § 23.4 of the regulations of this chapter. Family grouping of this $10 exemption is not allowed. If any article accompanying a person is subject to duty or tax by reason of these limitations, no articles accompanying such person shall be exempted from duty or tax under this paragraph.

(j) When duties are collected on articles in a passenger's baggage and the declaration is on customs Form 6063–B, the coupon receipt attached to the form shall be given to the passenger. When the declaration is on customs Form 6059 or 6063, a receipt on customs Form 5103 shall be issued.

(k) Tea for personal use in one or more packages weighing not more than 5 pounds each, when imported in a passenger's baggage, may be delivered without examination for purity under 21 U. S. C. 41–50 and without payment of the examination fee prescribed in 21 U. S. C. 46a.

(l) The internal-revenue tax on taxable tobacco products in passengers' baggage shall be paid to customs, using the customs entry form as a return. Any such return shall show the kind, the quantity, and the tax (by class in the case of cigars and cigarettes) on such tobacco products separately from the statement of duty. Unless for the personal consumption of the importer or disposition as his bona fide gift, tobacco products are subject to compliance with the package and mark requirements in the regulations of the Internal Revenue Service.

(m) Alcoholic beverages found in passengers' baggage shall be released without the placing of strip stamps on the bottles, provided it appears from the baggage declaration or otherwise that the liquors are for personal use and not for sale or other commercial purposes. The internal-revenue tax, however, shall be collected on all wines and liquors in excess of the quantity entitled to exemption as specified in § 10.17 (d), § 10.18 (e) or paragraph (i) of this section.

(Sec. 7, 52 Stat. 1081, as amended, sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1321, 1498)

§ 10.22 Crews' effects.

(a) An officer or seaman arriving on a vessel from a foreign port shall be considered a returning resident of the United States for the purpose of schedule 8, part 2A, Tariff Schedules of the United States, and §§ 10.17 to 10.21: *Provided*, He is a resident and (1) leaves the vessel without intention of reshipping on a vessel touching at foreign ports, or (2) remains on or transships to a vessel which is to proceed to another port of the United States in a movement in which entry of the vessel will not be required.

(b) Articles on board a vessel in the possession of or owned by any officer or member of the crew of the vessel, which are to be landed in the United States and for which written declaration and entry are required, shall be described and declared on a Declaration and Entry of Crew Member for Imported Articles, customs Form 5123, or other form approved by the Commissioner of Customs, upon the arrival of the vessel in the United States. Articles in the possession of or owned by officers or members of the crew and of a character for which entry must be made when they are brought into the United States shall be entered only at the port where the articles are to be landed, except that if any officer or crew member remains on a vessel which is to proceed on a movement described in paragraph (a) (2) of this section, entry shall be made at the port where such movement begins. Any duties and taxes found due shall be collected as in the case of arriving passengers. Articles not passed free belonging to an officer or seaman may be transferred from one vessel to another in the foreign trade under the supervision of customs officers, by a bonded cartman if necessary, without entry, declaration, or assessment of duty.

(c) Any such articles which are required to be manifested and are not manifested shall be subject to forfeiture and the master shall be subjected to a penalty equal to the value thereof, as provided for in section 584, Tariff Act of 1930, as amended. If any such articles are landed without a permit, the penalties provided for in section 453, Tariff Act of 1930, will accrue. (See § 23.4 of this chapter.)

(d) A nonresident crewmember leaving a vessel to travel as a passenger or crewmember on another carrier which will take him to a place outside the United States and who desires to take with him to such place articles not exceeding $200 in value accompanying him for which he seeks free entry under item 812.40, Tariff Schedules of the United States, shall itemize the articles on a declaration and entry form described in paragraph (b) of this section. In support of his declaration, the crewmember shall state in writing that (1) he has been finally discharged from the vessel, with date of discharge, (2) he intends to depart soon from the same or another United States port on another carrier for a place outside United States Customs territory either as a passenger or as a crewmember, and (3) the articles will be taken with him on such carrier to such place outside this country and will not remain in the United States. The collector may require the vessel agent, port captain, master, or other officer of the vessel on which the crewmember arrives to verify the crewmember's discharge and to state whether the second and third statements are believed to be correct. If the collector is satisfied that the crewmember's statements are correct, the articles may be passed free under item 812.40, Tariff Schedules of the United States. See § 10.18(c).

(e) A nonresident crewmember shall itemize on his baggage declaration and entry all articles in his possession for which he seeks free entry under item 812.25, Tariff Schedules of the United States, as bona fide gifts. Free entry of bona fide gifts under such provision of law is allowable only when the nonresident officer or crewmember is arriving for the purpose of such law; that is, when he is leaving his employment with one international carrier for a stay in the United States of at least 72 hours before traveling as a passenger or becoming an officer or crewmember again of an international carrier and departing in such status to a place outside the United States. An officer or crewmember who is a nonresident and departs a vessel or other conveyance at a port in this country but who retains his employment with the carrier so that he will be going foreign again in due course of his continuing employment is not treated as arriving when he departs a vessel or other conveyance for shore leave in the United States.

(Secs. 498, 584, 46 Stat. 728, as amended, 748, as amended; 19 U.S.C. 1498, 1584)

§ 10.23 Vessels transiting the Panama Canal; treatment of passengers' baggage and crews' effects.

Passengers' baggage and effects and purchases of officers and members of the crew landed in the United States from vessels which have transited the Panama Canal are subject to customs examination and treatment in the same manner as arrivals from a foreign country and a permit to unlade shall be obtained in such cases or the penalties provided for in section 453, Tariff Act of 1930, will be incurred.

(Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

---

[a] "(a) The Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, is hereby authorized, under such regulations as he shall prescribe, to—

* * * * *

"(2) Admit articles free of duty and of any tax imposed on or by reason of importation, but the aggregate value of articles imported by one person on one day and exempted from the payment of duty shall not exceed—

* * * * *

"(B) $10 in the case of articles accompanying, and for the personal or household use of, persons arriving in the United States who are not entitled to any exemption from duty or tax under paragraph 1798 (b)(2) and (c)(2) of this Act, * * *." (Tariff Act of 1930, sec. 321, as amended; 19 U.S.C. 1321)

§ 10.24 Government vessels.

(a) Immediately upon the arrival of any vessel operated directly by the United States or any agency thereof from a foreign port, the commanding officer shall file with the collector of customs information as to dutiable articles acquired abroad in the following form:

UNITED STATES NAVY CUSTOMS DECLARATION

U. S. S. _____
Port of arrival_____
To the collector of customs:

Herewith is submitted a list of articles acquired in foreign countries by me and the respective officers and members of the crew under my command, which list is correct to the best of my knowledge and belief.

Owner	Rank	Description of articles	Cost or value

Date _____, 19_____.
(Name)_____,
(Rank)_____,
Commanding Officer.

The listed articles shall be segregated until formally passed by the customs. If there are no articles to be listed, the statement "Nothing to declare" shall suffice.

(b) No baggage declarations shall be required, but the articles listed shall otherwise be examined and passed in the same manner as the baggage on passenger vessels.

(Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

§ 10.25 Army and Navy transports; baggage brought in.

(a) Commissioned officers and enlisted personnel of the armed forces of the United States engaged in the operation of an Army or Navy transport, enlisted men carried as passengers, and civilian officers and crew members, shall not be required to execute baggage declarations, but all articles acquired abroad by them must be listed on the manifest of the vessel. Written baggage declarations shall be required of all cabin passengers.

(b) Passengers on transports shall be granted the applicable exemptions from duty provided for in schedule 8, part 2A, Tariff Schedules of the United States, and commissioned officers and enlisted personnel of the armed forces of the United States engaged in the operation of the vessel shall be accorded the same privilege. Civilian officers and crew members shall be subject to the provisions of § 10.22 with respect to exemption from duty.

(c) Baggage on transports shall be examined at the port where landed in the same manner as baggage on commercial vessels.

(Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

§ 10.26 Household and personal effects of Army, Navy, and Marine Corps personnel and of civilian employees of the Panama Canal.

(a) A member of the armed forces of the United States or a civilian employee of the Panama Canal Company or Canal Zone Government returning to the United States is ordinarily classifiable for customs purposes under the provisions of schedule 8, part 2A, Tariff Schedules of the United States, as a returning resident of the United States, and such person shall be classified as a nonresident only if satisfactory evidence is available to show that the person has established a home elsewhere.

(b) Effects of the persons mentioned in paragraph (a) of this section shipped to the United States otherwise than as baggage from points in the Canal Zone, the Virgin Islands, the island of Guam, or American Samoa, where customs officials are stationed, shall be passed free of duty without examination upon arrival of the shipment in this country: *Provided*, That (1) the effects have been corded and sealed immediately after an examination made by a principal customs officer at the place of shipment; (2) the cords and seals are intact at the time of importation; and (3) there are filed at the port of entry a declaration of the owner and a certificate of the examining customs officer, both indicating that the packages corded and sealed contain nothing but articles of the classes entitled to free entry under schedule 8, part 1, or item 810.10, Tariff Schedules of the United States. Returning residents may also include in the corded and sealed packages articles classifiable under item 810.20 or 813.10, Tariff Schedules of the United States. Citizens of the United States who are employed in a civilian capacity by the Panama Canal and who are not returning residents may include in the corded and sealed packages articles classifiable under item 810.20, 812.10, 812.25 or 812.30, Tariff Schedules of the United States. The declaration of the owner may be accepted as an entry for any effects passed free under this paragraph when supported by evidence of the right to make entry.

(c) The declaration of the owner shall contain a statement as to his residence and the certificate of examination shall contain or be supported by detailed inventories of the contents of the packages covered by the declaration and certificate, certified by the examining customs officer to be correct in every particular. Both the declaration and the certificate shall be executed in triplicate, the original to accompany the shipment to the United States, the duplicate to be retained by the shipper of the merchandise, and the triplicate to be forwarded by mail to the collector of customs at the port in the United States where the shipment will be imported.

(d) Effects of members of the armed forces of the United States who are returning to this country from points abroad where no customs officer under the jurisdiction of the United States is stationed may be examined abroad under the procedure outlined above, the examination to be made by the senior officer of the post, excluding the owner of the effects except where only one officer is stationed. Upon the arrival of such shipments consigned to an official representative of the armed forces and the receipt of the required certificates of inspection and declaration of the owner, the packages shall be delivered to the consignee under cord and seal in order to eliminate storage and other charges, but not finally released until an entry has been filed and the goods actually have been examined by a customs officer of the port of entry. Examination in these cases shall be made at armed forces storehouses and, if items are found which are not classifiable under schedule 8, part 1, or item 810.10, 810.20 or 813.10, Tariff Schedules of the United States, the consignment shall again be corded and sealed and left in the custody of the official representative of the armed forces pending the payment of any duties applicable thereto.

(e) For the purpose of completing the collectors' records, the fact of arrival of armed forces personnel taking advantage of the provisions of this section shall be certified to the collector of the port through which their effects have been imported by the proper representative of the service to which the owners of the effects belong.

(f) Nothing in this section shall be construed to preclude the examination and detention of any importation if a customs officer having proper jurisdiction deems such action advisable in the interest of the revenue.

(Sec. 498, 46 Stat 728, as amended; 19 U.S.C. 1498)

§ 10.27 Unclaimed and unaccompanied baggage.

Articles in passengers' baggage on which duties due are not paid and baggage not claimed within a reasonable time shall be treated as unclaimed and sent to general order. All baggage on board a vessel not accompanying a passenger and the marks or addresses thereof shall be listed on the last sheet of the passenger manifest under the caption "Unaccompanied baggage."

(Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

§ 10.28 Registration of valuable effects.

(a) Any person who intends to take valuable effects of foreign origin or plumage abroad may present such articles, before his departure from the United States, to a collector of customs or other customs officer together with customs Form 4457, in duplicate, for registration in order to facilitate their identification on return to the United States. After the articles have been examined, the duplicate copy of the completed form shall be given to the applicant for use in connection with the return of the articles. The original shall be retained by the issuing office. The duplicate of the form shall be presented to the customs officer when the articles are returned to the United States. The registration certificate shall be effective for a period of 3 years from the date of its issuance.

(b) A resident seaman, airman, or person engaged in similar employment, who makes recurrent voyages or trips while pursuing his occupation may register cameras, photographic equipment, binoculars, sextants, radios, or other ef-

fects of foreign origin on customs Form 4457 under the procedure prescribed in paragraph (a) of this section. This registration certificate shall be effective for a 3-year period.

(c) Customs Form 4455 may be required to be used in any case in which customs Form 4457 will not adequately serve the purpose of registration.

(Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

DIPLOMATIC AND CONSULAR OFFICERS

§ 10.29 Baggage.

(a) Upon application to the Department of State and appropriate instructions from the Treasury Department in each instance, the privilege of admission free of duty without entry shall be extended to the baggage and effects of the following representatives of foreign governments and their families, suites, and servants, provided the governments which they represent grant reciprocal privileges to American officials of like grade accredited thereto or en route to or from other countries to which accredited.

(1) Ambassadors, ministers, and chargés d'affaires; secretaries, counselors and naval, military, and other attachés of embassies and legations; high commissioners, consular officers, and trade representatives; all the foregoing who are accredited to this Government or are en route to or from other countries to which accredited; and

(2) Other high officials of foreign governments and such distinguished foreign visitors as may be designated by the Department of State.

(b) In the absence of special authorization therefor from the Department prior to the arrival of representatives of foreign governments enumerated in paragraph (a) (1) of this section, the privilege may be extended to their baggage and effects upon presentation of their credentials or other proof of their identity.

(c) Foreign ambassadors, ministers, chargés d'affaires; secretaries, counselors, and naval, military, and other attachés of foreign embassies and legations shall not be detained or inconvenienced, and their baggage effects shall remain inviolate. Every proper means shall be afforded them to facilitate their passage through ports of the United States.

(d) The privilege of admission free of duty without entry of their baggage and effects may also be extended to representatives of this Government of the classes enumerated in paragraph (a) (1) of this section, including Treasury attachés and Treasury representatives, together with their families and servants, returning from their missions abroad, upon the production of their credentials; and to other high officials of this Government returning from special missions abroad, upon application therefor direct to the Treasury Department by the heads of the respective branches of the Government with which they are connected and the issuance of appropriate instructions. The free entry authorized hereunder shall not extend to alcoholic beverages, with respect to which the persons enumerated in this paragraph shall receive no other exemption from duty and internal-revenue tax than is allowed returning residents of the United States in accordance with § 10.17 (d).

(e) If by accident or unavoidable delay in shipment the baggage or other effects of a person of any class mentioned in this section shall arrive after him, such baggage or effects may be passed free of duty, under the conditions specified above, upon satisfactory proof of ownership.

(f) The accompanied personal baggage of diplomatic couriers of foreign countries shall be accorded customs privileges and immunities extended to foreign personnel of diplomatic rank under paragraph (c), except in cases provided for by special instructions from the Commissioner of Customs.

(Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

§ 10.30 Importations for resident representatives of foreign governments.

(a) Costumes, regalia, and other articles, including office supplies and equipment, for the official use of members and attachés of foreign embassies and legations, consular officers, and other representatives of foreign governments, may be admitted free of duty, provided the country which any such person represents accords like privileges to corresponding officials of the United States. Articles for the official use of representatives of foreign governments not listed in a Treasury Decision[32] shall be admitted free of duty only upon the receipt of instructions from the Department, which will be issued only when application therefor is made through the Department of State.

(b) Packages bearing the official seal of a foreign government with which the United States has diplomatic relations, accompanied by certificates under such seal to the effect that they contain only official communications or documents may be admitted free of duty without customs examination.

(c) The privilege of importing free of duty articles for their personal or family use may be granted to (1) members and attachés of foreign embassies and legations, and (2) other representatives and employees of foreign governments to whom the privilege is accorded under special agreements between the United States and the countries which they represent,[33] but in either case the privilege may be granted only upon the Department's instructions in each instance which will be issued only upon the request of the Department of State.

(d) No entry is required for shipments admitted free of duty under this section.

(Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

PUBLIC INTERNATIONAL ORGANIZATIONS

§ 10.30a Organizations included.

(a) The President, by virtue of the authority vested in him by section 1 of The International Organizations Immunities Act of December 29, 1945 (22 U. S. C. 288) [33a] has designated certain organizations as public international organizations entitled to the free entry privileges of that statute. The following is a list of the public international organizations currently entitled to such free entry privileges and the Executive orders by which they were designated:

Organization	Executive Order	Date
Caribbean Organization	10983	Dec. 30, 1961
Coffee Study Group	10943	May 19, 1961
Food and Agriculture Organization	9698	Feb. 19, 1946
Great Lakes Fishery Commission	11059	Oct. 23, 1962
Inter-American Defense Board	10228	Mar. 26, 1951
Inter-American Development Bank	10873	Apr. 8, 1960
Inter-American Institute of Agricultural Sciences	9751	July 11, 1946
Inter-American Statistical Institute	9751	Do.
Inter-American Tropical Tuna Commission	11059	Oct. 23, 1968
Intergovernmental Maritime-Consultative Organization	10795	Dec. 13, 1958
International Atomic Energy Agency	10727	Aug. 31, 1957
International Bank for Reconstruction and Development [33b]	9751	July 11, 1946
International Civil Aviation Organization	9863	May 31, 1947
International Cotton Advisory Committee	9911	Dec. 19, 19476
International Finance Corporation	10680	Oct. 2, 1956
International Hydrographic Bureau	10769	May 29, 1958
International Joint Commission-United States and Canada	9972	June 25, 1948
International Labor Organization	9698	Feb. 19, 1946
International Monetary Fund [33b]	9751	July 11, 1946
International Pacific Halibut Commission	11059	Oct. 23, 1962
International Telecommunication Union	9863	May 31, 1947
International Wheat Advisory Committee (International Wheat Council)	9823	Jan. 24, 1947

[32] Information concerning countries whose governments accord such reciprocal privileges is published in T. D. 52847, and T. D. 53233.

[33] Notices regarding the special agreements are published in the Treasury Decisions.

[33a] "For the purposes of this title, the term 'international organization' means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time to revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title." (Sec. 1, 59 Stat. 669; 22 U. S. C. 288)

Organization	Executive Order	Date
Organization for Economic Cooperation (now known as the Organization for Economic Cooperation and Development)	10133	June 27, 1950
Organization of American States	10533	June 3, 1954
Pan American Health Organization (includes the Pan American Sanitary Bureau)	10864	Feb. 8, 1960
Pan American Union	10533	June 3, 1954
Provisional Intergovernmental Committee for the Movement of Migrants from Europe (now known as the Intergovernmental Committee for European Migration)	10335	Mar. 28, 1952
Southeast Asia Treaty Organization	10866	Feb. 23, 1960
South Pacific Commission	10086	Nov. 25, 1949
United Nations	9698	Feb. 19, 1946
United Nations Educational, Scientific, and Cultural Organization	9863	May 31, 1947
Universal Postal Union	10727	Aug. 31, 1957
World Health Organization	10025	Dec. 30, 1948
World Meteorological Organization	10676	Sept. 1, 1956

(b) Pursuant to sections 2 (d) and 3[33c] of the act, property of the organizations named in paragraph (a) of this section and the baggage and effects of the alien officers and employees thereof, of aliens designated by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives shall be admitted free of duties and internal-revenue taxes imposed upon or by reason of importation, but such exemption shall be granted only upon the receipt in each instance of the Department's instructions which will be issued only upon the request of the Department of State.

(c) The term "baggage and effects" as used in section 3 of the act includes all articles which were in the possession abroad, and are being imported in connection with the arrival, of a person entitled to the benefits of the act and which are intended for his bona fide personal or household use, but does not include articles imported as an accommodation to others or for sale or other commercial use.

(d) All articles accorded free entry under the act shall be entered or withdrawn in accordance with the requirements prescribed by the Tariff Act of 1930, as amended, and the regulations thereunder.

(e) No invoices shall be required for articles accorded free entry under the act.

(f) Any customs bond which may be required from one of the organizations named in paragraph (a) of this section in connection with the importation or entry of merchandise into, or the exportation of merchandise from, the United States may be accepted without surety.

(g) The provisions of the act are applicable, insofar as duties and internal-revenue taxes imposed upon or by reason of importation are concerned, only with respect to articles entered, or withdrawn from warehouse, for consumption on and after December 29, 1945.

(Sec. 498, 46 Stat. 728, as amended, sec. 3, 59 Stat. 669; 19 U.S.C. 1498, 22 U.S.C. 288b)

§ 10.30b Baggage of, and importations for, certain representatives of the United Nations, of specialized agencies of the United Nations, and of the Organization of American States.

(a) The privilege of admission free of duty and internal-revenue tax without entry or examination may be extended to the baggage and effects of (1) every person designated by a United Nations Member nation as the principal resident representative to the United Nations of such Member or as a resident representative with the rank of ambassador or minister plenipotentiary, (2) such resident members of their staffs as may be agreed upon between the Secretary-General of the United Nations, the Government of the United States, and the Government of the United Nations Member concerned, (3) every person designated by a United Nations Member of a specialized United Nations agency as its principal resident representative, with the rank of ambassador or minister plenipotentiary, at the headquarters of such agency in the United States, (4) such other principal resident representatives of United Nations Members to a specialized United Nations agency and such resident members of the staffs of representatives to a specialized United Nations agency as may be agreed upon between the principal executive officer of the specialized agency, the Government of the United States, and the Government of the United Nations Member concerned, (5) any person designated by a Member of the Organization of American States as its representative or interim representative on the council of the Organization of American States, and (6) all other permanent members of the Delegation of a Member of the Organization of American States regarding whom there is agreement for that purpose between the Government of the Member State concerned, the Secretary-General of the Organization of American States, and the Government of the United States of America.

(b) The privilege of importing without entry and free of duty and internal-revenue tax articles for their personal or family use may be granted to persons of the classes enumerated in paragraph (a) of this section.

(c) In the absence of a special authorization from the Department prior to arrival of persons of the classes enumerated in paragraph (a) of this section, the privilege of admission free of duty and internal-revenue tax without entry or examination may be extended to their baggage and effects upon presentation of their credentials or other proof of their identity.

(d) Only the alien representatives and the alien members of staffs enumerated in paragraph (a) of this section shall be entitled to the privileges and immunities provided for by this section.

(Art. V, sec. 15, 61 Stat. 762, ch. 628, 66 Stat. 516, sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

FREE ENTRY; FOREIGN MILITARY PERSONNEL AND MEMBERS OF THEIR IMMEDIATE FAMILIES

§ 10.30c Articles for the use of foreign military personnel and their immediate families.

(a) Under item 822.40 or 822.20, pursuant to schedule 8, part 2, headnote 1 and part 2C, headnotes 1, 3 and 4,[33e] or under item 841.20, pursuant to schedule 8, part 3B, headnote 1,[33f] Tariff Schedules of the United States, collectors of customs shall accord entry free of all duties and internal-revenue taxes imposed upon or by reason of importation, and of all customs charges and exactions to articles entered, or withdrawn from

---

[33] Customs exemptions have also been prescribed for the International Monetary Fund and the International Bank for Reconstruction and Development in 59 Stat. 512; 22 U. S. C. 286 et seq.

[33a] "Insofar as concerns customs duties and internal-revenue taxes imposed upon or by reason of importation, and the procedures in connection therewith; the registration of foreign agents; and the treatment of official communications, the privileges, exemptions, and immunities to which international organizations shall be entitled shall be those accorded under similar circumstances to foreign governments." (Sec. 2 (d), 59 Stat. 669; 22 U. S. C. 288a (d))

"Pursuant to regulations prescribed by the Commissioner of Customs with the approval of the Secretary of the Treasury, the baggage and effects of alien officers and employees of international organizations, or of aliens designated by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives shall be admitted (when imported in connection with the arrival of the owner) free of customs duties and free of internal-revenue taxes imposed upon or by reason of importation.", (Sec. 3, 59 Stat. 669; 22 U. S. C. 288b)

[33e] "1. Any articles exempted under this part from the payment of duty shall be exempt also from the payment of any internal-revenue tax imposed upon or by reason of importation." (Schedule 8, part 2, headnote 1.)

"1. The term 'baggage and effects', as used in this subpart, includes all articles which were in the possession abroad, and are being imported in connection with the arrival of a person and which are intended for his bona fide personal or household use, but does not include articles imported as an accommodation to others or for sale or other commercial use.

* * * * *

"3. The term 'articles entered for the personal or family use', as used in this subpart, does not include articles imported as an accommodation to others or for sale or other commercial use.

"4. The privileges provided for in this subpart for representatives, officers, employees, and members of the armed forces, of foreign governments, their families, suites, and servants, shall be accorded only if their government grants reciprocal privileges to United States personnel of comparable status." (Schedule 8, part 2C, headnotes 1, 3 and 4, Tariff Schedules of the United States.)

[33f] "1. Any article exempted under this subpart from the payment of duty shall be exempt also from the payment of any internal-revenue tax imposed upon or by reason of importation." (Schedule 8, part 3B, headnote 1, Tariff Schedules of the United States.)

warehouse, for consumption on or after

taxes imposed upon or by reason of importation.", (Sec. 3, 59 Stat. 669; 22 U. S. C. 288b)

Member nation as the principal resident

warehouse, for consumption on or after August 28, 1949, for the official use of any person who is on duty in the United States, its Territories, or possessions as a member of the armed forces of any foreign country, or for the personal use of any such person or of any member of his immediate family. When collectors of customs have been advised officially of a finding by the Secretary of the Treasury that a foreign country does not reciprocate to members of the armed forces of the United States on duty in its country and members of their immediate families the privileges accorded its members and their families in the United States, the collectors shall accord to the personnel of such foreign government privileges under the law only to the extent to which the foreign government or governments accord similar treatment to members of the armed forces of the United States and members of their immediate families.

(b) If any question arises as to the status of the importer under the said item 820.40, 822.20 or 841.20, Tariff Schedules of the United States or whether articles entered thereunder are for official use or personal use, the collector shall report the available facts to the Bureau of Customs and await instructions. In the case of the entry for consumption or withdrawal from warehouse for consumption for personal use of alcoholic beverages in amounts in excess of one case per month per person entitled to the free entry privilege, an application in writing signed by the person entitled to the privilege shall be made to the collector of customs stating explicitly the reasons for the quantity requested. The application shall be approved by the officer or person in charge of the armed forces involved or a person designated specifically by such officer or person in charge as authorized to approve such requests. Questionable cases shall be referred to the Bureau for instructions.

(c) The entry requirements prescribed in the Tariff Act of 1930, as amended, and the regulations thereunder are applicable to articles for which free entry is claimed under the said item 820.40, 822.20 or 841.20, Tariff Schedules of the United States.

(d) No invoices shall be required for articles accorded free entry under the said item 820.40, 822.20 or 841.20, Tariff Schedules of the United States.

(Sec. 101, 76 Stat. 72; Sch. 8, pt. 2, hdnote 1, pt. 2C, hdnotes 1, 3, 4, pt. 3B, hdnote 1, Tariff Schedules of the United States)

TEMPORARY IMPORTATIONS UNDER BOND

§ 10.31 Entry; bond.

(a) Entry of articles brought into the United States temporarily and claimed to be exempt from duty under schedule 8, part 5C, Tariff Schedules of the United States,[34] shall be made on customs Form 7501, except that, when § 10.36 is applicable or the aggregate value of the articles is not over $250, the form prescribed for the informal entry of importations by mail, in baggage, or other, as the case may be, may be used. When entry is made on customs Form 7501, it shall be in original only except in the case of entries under item 864.05, in which case a duplicate copy shall be required for statistical purposes. In addition to the data usually shown on a regular consumption entry, there shall be set forth on each temporary importation bond entry (1) the item number under which entry is claimed, (2) a statement of the use to be made of the articles in sufficient detail to enable the collector to determine whether they are entitled to entry as claimed, and (3) a declaration that the articles are not to be put to any other use and that they are not imported for sale or sale on approval.

---

[34] "1. The articles described in the provisions of this subpart, when not imported for sale or for sale on approval, may be admitted into the United States without the payment of duty, under bond for their exportation within 1 year from the date of importation, which period, in the discretion of the Secretary of the Treasury, may be extended, upon application, for one or more further periods which, when added to the initial 1 year, shall not exceed a total of 3 years, except that articles imported under item 864.75 shall be admitted under bond for their exportation within 6 months from the date of importation and such 6-months period shall not be extended.

"2. Merchandise may be admitted into the United States under item 864.05 only on condition that—

"(a) such merchandise will not be processed into an article manufactured or produced in the United States if such article is—

(i) alcohol, distilled spirits, wine, beer, or any dilution or mixture of any or all of the foregoing;

(Footnote 34—Continued)

(ii) a perfume or other commodity containing ethyl alcohol (whether or not such alcohol is denatured), or

(iii) a product of wheat; and

"(b) if any processing of such merchandise results in an article (other than an article described in (a) of this headnote) manufactured or produced in the United States—

(i) a complete accounting will be made to the Customs Service for all articles, wastes, and irrecoverable losses resulting from such processing, and

(ii) all articles and valuable wastes resulting from such processing will be exported or destroyed under customs supervision within the bonded period.

"3. Upon satisfactory proof that any article admitted under item 864.30 has been destroyed because of its use for any purpose provided for therein, the obligation under the bond to export such article shall be treated as satisfied.

"4. Collectors of customs may defer the exaction of a bond for not to exceed 90 days after the date of importation for vehicles and craft entered under item 864.35 to take part in races or other specific contests for other than money purses, but unless any such vehicle or craft is exported or the bond is given within the period of such deferment, such vehicle or craft shall be subject to forfeiture.

"5. Articles may be admitted under item 864.75 only on condition that the Secretary of the Treasury shall have found that the foreign country from which the articles were imported allows, or will allow, substantially reciprocal privileges in respect of similar imports to such country from the United States; and if the Secretary finds that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges of item 864.75 shall not apply thereafter in respect of imports from such foreign country.

"Item 864.05 Articles to be repaired, altered, or processed (including processes which result in articles manufactured or produced in the United States) * * *"

"Item 864.10 Models of women's wearing apparel imported by manufacturers for use solely as models in their own establishments * * *"

"Item 864.15 Articles imported by illustrators and photographers for use solely as models in their own establishments, in the illustrating of catalogues, pamphlets, or advertising matter * * *"

"Item 864.20 Samples solely for use in taking orders for merchandise * * *"

"Item 864.25 Articles solely for examination with a view to reproduction, or for such examination and reproduction (except photoengraved printing plates for examination and reproduction); and motion-picture advertising films * * *"

"Item 864.30 Articles intended solely for testing, experimental, or review purposes, including plans, specifications, drawings, blueprints, photographs, and similar articles for use in connection with experiments or for study * * *"

"Item 864.35 Automobiles, motorcycles, bicycles, airplanes, airships, balloons, boats, racing shells, and similar vehicles and craft, and the usual equipment of the foregoing; all the foregoing which are brought temporarily into the United States by nonresidents for the purpose of taking part in races or other specific contests * * *."

"Item 864.40 Locomotives and other railroad equipment brought temporarily into the United States for use in clearing obstructions, fighting fires, or making emergency repairs on railroads within the United States, or for use in transportation otherwise than in international traffic when the Secretary of the Treasury finds that the temporary use of foreign railroad equipment is necessary to meet an emergency * * *."

"Item 864.45 Containers for compressed gases, filled or empty, and containers or other articles in use for covering or holding merchandise (including personal or household effects) during transportation and suitable for reuse for that purpose * * *."

"Item 864.50 Professional equipment, tools of trade, and camping equipment imported for their own use by nonresidents sojourning temporarily in the United States * * *."

"Item 864.55 Articles of special design for temporary use exclusively in connection with the manufacture or production of articles for export * * *."

"Item 864.60 Animals and poultry brought into the United States for the purpose of breeding, exhibition, or competition for prizes, and the usual equipment therefor * * *."

"Item 864.65 Theatrical scenery, properties, and apparel brought into the United States by proprietors or managers of theatrical exhibitions arriving from abroad for temporary use by them in such exhibitions * * *."

"Item 864.70 Paintings, pastels, drawings, sketches, engravings, etchings, lithographs, woodcuts, photographic pictures, and philosophical and scientific apparatus brought into the United States by professional artists, lecturers, or scientists arriving from abroad for use by them for exhibition and in illustration, promotion, and encouragement of art, science, or industry in the United States * * *."

"Item 864.75 Automobiles, automobile chassis, automobile bodies, cutaway portions of any of the foregoing, and parts for any of the foregoing, finished, unfinished, or cutaway, when intended solely for show purposes * * *" (Schedule 8, part 5C, Tariff Schedules of the United States.)

(b) The collector, if he is satisfied as to the importer's identity and good faith, may admit a vehicle or craft brought in by a nonresident to take part in a race or other specific contest for which no money purse is awarded, under the provisions of item 864.35, Tariff Schedules of the United States, without formal entry or security for exportation. In such cases the collector shall issue to the importer a certificate on customs Form 4447, which shall be delivered with the article covered thereby to the customs officer at the port of exit at the time of departure. If at the time of arrival it appears that the article is likely to remain in the United States beyond 90 days, formal entry and bond shall be taken.

(c) When any article has been admitted without formal entry or security for exportation and the importer thereafter desires to prolong his stay beyond 90 days, an entry covering the article and security for its exportation shall be accepted at any port where the article may be presented for entry. Whenever an entry is substituted under the provisions of this paragraph for a certificate on customs Form 4447, the time during which the imported article may remain in the United States under the entry shall be computed from the date of its original arrival in the United States. The estimated duties for the purpose of fixing the amount of any bond required by paragraph (f) of this section shall be the estimated duties which would have been required to be deposited had the article been entered under an ordinary consumption entry on the date of the original arrival.

(d) In the case of a foreign-owned automobile or motorcycle, the registration card therefor may be taken up in lieu of the issuance of customs Form 4447, if the owner so desires, provided the collector is satisfied that the article concerned will leave the United States via the same route within 90 days.

(e) The entry or invoice shall describe each article in detail and set forth any marks or numbers thereon or other distinguishing features thereof, together with the value of each item. Examination of the articles shall be made whenever the circumstances warrant, and occasionally in any event to an extent which will enable the collector to determine that the importation is in agreement with the invoice or entry as to identity and quantity and for the purpose of accepting the entry under the applicable provisions of schedule 8, part 5C, Tariff Schedules of the United States. No examination for the purpose of appraisement and no appraisement of the articles shall be made.

(f) A bond shall be given on customs Form 7563 in an amount equal to double the duties which it is estimated would accrue (or such larger amount as the collector of customs shall state in writing to the entrant is necessary to protect the revenue) had all the articles covered by the entry been entered under an ordinary consumption entry. A term bond on customs Form 7563–A, may also be given. Cash deposits in the amount of the bond may be accepted in lieu of sureties. When the articles are entered under item 864.20, 864.25, or 864.50, Tariff Schedules of the United States, without formal entry, as provided for in § 10.36, or the amount of the bond taken under any item of schedule 8, part 5C, Tariff Schedules of the United States is less than $25, the bond shall be without surety or cash deposit and the bond form shall be modified to so indicate.

(g) Claim for free entry under schedule 8, part 5C, Tariff Schedules of the United States may be made for articles of any character described therein which have been previously entered under any other provision of law and the entry amended accordingly upon compliance with the requirements of this section, provided the articles have not been released from customs custody, or even though released from customs custody if it is established that the original entry was made on the basis of a clerical error, mistake of fact, or other inadvertence within the meaning of section 520(c)(1), Tariff Act of 1930, as amended, and was brought to the attention of the Customs Service within the time limits of that section. If an entry is so amended, the bond period shall be computed from the date of importation. In the case of articles covered by an informal mail entry, such a claim may be made within a reasonable time either before or after the articles have been released from customs custody.

(h) After the entry and bond have been accepted, the articles may be released to the importer. The entry shall not be liquidated as the transaction does not involve liquidated duties.

§ 10.33 Theatrical effects.[88]

(a) In connection with the entry under bond of theatrical scenery, property, and apparel, a declaration of the manager or proprietor shall be required on customs Form 3325 in addition to the requirements of § 10.31.

(b) Animals imported for use or exhibition in theaters or menageries may be classified as theatrical properties.

(c) The term "theatrical scenery, properties, and apparel" shall not be construed to include motion-picture films.

§ 10.34 Articles brought by professional artists, lecturers, or scientists.

In connection with the entry of works of art and other articles provided for in item 864.70, Tariff Schedules of the United States, brought in by professional artists, lecturers, or scientists, a declaration on customs Form 3325 shall be required in addition to the requirements of § 10.31.

§ 10.35 Models of women's wearing apparel.

(a) Models of women's wearing apparel admitted under item 864.10, Tariff Schedules of the United States, shall not be removed from the importer's establishment for reproducing, copying, painting, sketching, or for any other use by others, nor be used in the importer's establishment for such purposes except by the importer or his employees.

(b) The importer shall file in connection with the entry a declaration stating, in addition to his name and business address, that he is a manufacturer; that the articles are imported solely as models for use in his own establishment and will be so used; that they are not imported for sale or for sale on approval; and that they will not be removed from such establishment for reproducing, copying, painting, or sketching by others, nor used in his establishment for such purposes except by him or his employees.

(c) Invoices covering models of women's wearing apparel entered under item 864.10 or 864.25 shall state the kind and color of the principal material from which the apparel is made, and shall contain a description of the lining and the trimming, stating whether composed of fur, lace, embroidery, or other material. Invoices shall also contain a statement as to how the trimming is applied, that is, whether on the cuffs, collar, sleeves, or elsewhere, and the total value of each completed garment or article.

(d) Models of women's wearing apparel entered under item 864.10 or 864.25 shall be marked for identification by means of a cord and lead or tin seal, the cord to be run through the article and all trimming thereon, where necessary, in such manner as to prevent the removal of the cord and seal without cutting the cord or injuring the article. A tag shall be attached to the cord, upon which shall be stated the name of the port at which the article was imported, the entry number, name of importer, and the number of the bond.

§ 10.36 Commercial travelers' samples; professional equipment and tools of trade; theatrical effects and other articles.

(a) Samples accompanying a commercial traveler who presents an adequate descriptive list or a special customs invoice and professional equipment and tools of trade imported in his baggage for his own use by a nonresident sojourning temporarily in the United States may be entered on the importer's baggage declaration in lieu of formal entry and examination and may be passed under item 864.20 or item 864.50, Tariff Schedules of the United States, at the place of arrival in the same manner as other passengers' baggage. The examination may be made by an inspector who is qualified, in the opinion of the collector, to determine the amount of the bond required by § 10.31 (c) to be filed in support of the entry. If the articles are a commercial traveler's samples and exceed $500 in value, a special customs invoice or a descriptive list shall be furnished.

(b) When the proprietor or manager of a theatrical exhibition arriving from abroad who has entered his scenery, properties, and apparel under item 864.65, Tariff Schedules of the United States, contemplates side trips to a contiguous country with the exhibition within the period of the bond, including any lawful extension, a copy of the entry covering the effects and a copy of a de-

[88] For regulations relating to return without formal entry of theatrical effects taken from the United States, see § 10.68.

scriptive list of such effects or invoice furnished by him may be certified by the examining officer and returned to the proprietor or manager for use in registering the effects with the customs officers at the port of exit, and in clearing them through customs on his return. Cancelation of the bond shall be effected by exportation in accordance with the provisions of § 10.38 at the time the theatrical effects are finally taken out of the United States before the expiration of the bond period, including any lawful extension. Similar treatment may be accorded articles entered under other items in schedule 8, part 5C, Tariff Schedules of the United States, upon approval by the Bureau.

(c) When a commercial traveler contemplates side trips to a contiguous country within the period of the bond, including any lawful extension, a copy of his baggage declaration and a copy of the descriptive list or special customs invoice furnished by him may be certified by the examining officer and returned to the traveler for use in registering the samples with customs officers at the port of exit, and in clearing them through customs upon his return. Cancelation of the bond shall be effected by exportation in accordance with the provisions of § 10.38 at the time the samples are finally taken out of the United States before the expiration of the bond period, including any lawful extension.

(d) The privilege of clearance of commercial travelers' samples or professional equipment or tools of trade imported for his own use by a nonresident sojourning temporarily in the United States on a baggage declaration under bond without surety or cash deposit shall not be accorded to a commercial traveler or such nonresident who, through fraud or culpable negligence, has failed to comply with the provisions of such a bond in connection with a prior arrival. Such a commercial traveler or nonresident shall be required to file a formal entry under item 864.20 or item 864.50, Tariff Schedules of the United States with a bond supported by a surety or cash deposit in lieu of surety.

(Sec. 498, 46 Stat. 728, as amended, sec. 101, 76 Stat. 72; 19 U.S.C. 1498; Sch. 8, pt. 5C, Tariff Schedules of the United States)

§ 10.37 Extension of bonds.

A bond given to assure the exportation of a temporary importation entered under schedule 8, part 5C, Tariff Schedules of the United States, may be extended for not more than two further periods of 1 year each, or such shorter period as may be appropriate, by the collector of customs at the port where the entry was filed, upon written application to such collector on customs Form 3173, provided the articles have not been exported or duly destroyed before the receipt of the application by the collector, and provided liquidated damages have not been assessed under the bond before such receipt.

§ 10.38 Exportation.

(a) Articles entered under a temporary importation bond may be exported at the port of entry or at another port. An application on customs Form 3495 shall be filed with the collector a sufficient length of time in advance of exportation to permit the examination and identification of the articles if circumstances warrant such action and, in such event, the applicant shall be notified on customs Form 3497 where the articles are to be sent for identification.

(b) All expenses in connection with the delivery of the articles for examination, the cording and sealing of such articles, and their transfer for exportation shall be paid by the parties in interest.

(c) If exportation is to be made at a port other than the one at which the merchandise was entered, the application on customs Form 3495 shall be filed in duplicate. There shall also be filed with the application a certified copy of the import entry or a certified copy of the invoice used on entry.

(d) If the goods are examined at one port and are to be exported at another port, they shall be forwarded to the port of exportation under a transportation and exportation entry. In such cases customs Form 3495 shall be filed in duplicate.

(e) If the articles are to be exported by mail or parcel post, the package containing the articles must be mailed under customs supervision after examination. Waiver of the right to withdraw the package from the mails shall be endorsed on each package to be so exported and signed by the exporter.

(f) Whenever the circumstances warrant, and occasionally in any event, collectors of customs shall cause the fact of exportation to be verified by the Customs Agency Service in harmony with the procedures provided for in §§ 18.7 and 22.43 of this chapter.

§ 10.39 Cancellation of bonds.

(a) Bonds taken pursuant to schedule 8, part 5C, Tariff Schedules of the United States, may be canceled in the manner prescribed in § 25.15 of this chapter. In the case of articles entered under item 864.30, Tariff Schedules of the United States, which are destroyed because of their use for the purpose of importation, the bond shall not be canceled unless there is submitted to the collector a certificate of the importer that the articles were destroyed during the course of a specifically described use, and the collector is satisfied that the articles were so destroyed as articles of commerce within the bond period (including any lawful extension). Bonds covering articles entered under other provisions of law shall not be canceled upon proof of destruction, except as provided for in paragraph (c) of this section, unless the articles are destroyed under customs supervision in accordance with section 557, Tariff Act of 1930, as amended, and § 15.4 of this chapter.

(b) Where exportation has been made at a port other than the port of entry, the bond may be canceled upon the certificate of lading received from the port of exportation, showing that such exportation was made within the bond period. In addition, the collector may require the production of a landing certificate signed by a revenue officer of the country to which the merchandise is exported.

(c) When articles entered temporarily free of duty under bond are destroyed within the bond period by death, accidental fire, or other casualty, application for relief from liability under the bond shall be made to the Bureau of Customs. The application shall be accompanied by a statement of the importer, or other person having knowledge of the facts, setting forth the circumstances of the destruction of the articles.

(d) If any article entered under schedule 8, part 5C, Tariff Schedules of the United States, has not been exported or destroyed in accordance with the regulations in this part within the bond period (including any lawful extension), the collector shall make a demand in writing under the bond for the payment of liquidated damages equal to the entire amount of the bond, except that if the entry covering the articles is charged against a term bond the demand shall be limited to an amount equal to double the estimated duties applicable to such entry. The written demand shall include a statement that a written application for relief from the payment of the full liquidated damages may be filed with the collector within 60 days after the date of the demand.

(e) If there has been default with respect to all the articles covered by the bond and a written application for relief is timely filed, it shall be transmitted to the Bureau with a full report of the facts, unless it is allowed by the collector in whole or in part in accordance with this regulation. If the full amount of liquidated damages demanded does not exceed $20,000 and the collector is satisfied that the importation was properly entered under schedule 8, part 5C, and that there was no intent to defraud the revenue or delay the payment of duty, the collector may cancel the liability for the payment of liquidated damages as follows:

(1) If evidence is furnished which satisfies the collector that the article would have been entitled to free entry as domestic products exported and returned had the evidence been furnished at the time of entry, without the collection of liquidated damages.

(2) If the article has been exported or destroyed under customs supervision but not within the bond period, upon the payment of such lesser amount as the collector may deem appropriate under the law and in view of the circumstances, or without the collection of liquidated damages if the collector is satisfied that the delay in exportation or destruction was for the benefit of the United States or was occasioned wholly by circumstances reasonably beyond the control of the parties concerned and which could not have been anticipated by a reasonably prudent person.

(3) If the article was exported or destroyed within the bond period but not under customs supervision and satisfactory documentary evidence of actual exportation, such as a foreign landing certificate, or of death or other complete destruction, such as a veterinarian's certificate or certificates of two disinterested witnesses, are furnished together with a complete explanation by the applicant of

the failure to obtain customs supervision, upon the payment of such lesser amount as the collector may deem appropriate under the law and in view of the circumstances, or without the collection of liquidated damages if the collector is satisfied that the merchandise was destroyed under circumstances which precluded any arrangement to obtain customs supervision.

(4) Upon the payment of an amount equal to double the duties which would have accrued on the articles had they been entered under an ordinary consumption entry, if such amount is determined to be less than the full amount of the bond.

(f) If there has been compliance with the terms of the bond with respect to part of but not all the articles covered thereby and a written application for relief is filed, and if that part of the liability for liquidated damages which represents double the duty on the articles in respect of which there has been a default does not exceed $20,000, the collector may cancel the total liability for payment of liquidated damages in any amount upon the payment of an amount equal to double the duty on the articles in respect of which the default occurred or, under the circumstances enumerated in subparagraphs (1), (2), or (3) of paragraph (e) of this section, upon payment of such lesser amount as the collector may deem appropriate, provided the collector is satisfied that the importation was properly entered under schedule 8, part 5C and that there was no intent to defraud the revenue or delay the payment of duty.

(g) If the applicant is not satisfied with a collector's action under this section and submits a supplemental application, both the original and the supplemental applications shall be transmitted to the Bureau with a full report on the case.

§ 10.40 Refund of cash deposits.

(a) When a cash deposit is made in lieu of surety, it shall be refunded to the person in whose name the entry is made upon exportation in compliance with § 10.38.

(b) If any article entered under schedule 8, part 5C, Tariff Schedules of the United States, is not exported or destroyed within the bond period (including any lawful extension), the collector shall notify the importer in writing that the entire cash deposit will be transferred to the regular account as liquidated damages unless a written application for relief from the payment of the full liquidated damages is filed with the collector within 60 days after the date of the notice. If such an application is timely filed, the transfer of the cash deposit to the regular account as liquidated damages shall be deferred pending the decision of the Bureau or, in appropriate cases, the collector of customs on the application.

INTERNATIONAL TRAFFIC [37]

§ 10.41 Instruments; exceptions.

(a) Locomotives and other railroad equipment used in international traffic shall be subject to the treatment provided for in § 5.12 of this chapter.

(b) Foreign-owned trucks, busses, and taxicabs arriving with merchandise or passengers destined to points in the United States, or arriving empty or loaded for the purpose of taking out merchandise or passengers, but not to engage in any local traffic in the United States (except that a vehicle in use on a regular scheduled trip in international traffic may carry merchandise or passengers between points in the United States when such carriage is directly incidental to the international schedule, and a foreign-owned truck trailer may carry merchandise between points in the United States on the return trip to the country from which it entered the United States under the same conditions as are prescribed for "other equipment" in § 5.12 (a) of this chapter), may be admitted without written entry or the payment of duty. In the case of any such vehicle not in use on a regularly scheduled trip, the collector may require that the registration card for the vehicle be deposited pending the return of the vehicle for departure to the country from which it arrived, or the collector may take other appropriate measures to assure the proper use and departure of the vehicle.

(c) Foreign-owned aircraft arriving in the United States shall be subject to the treatment provided for in Part 6 of this chapter, unless entered under the provisions of § 10.31 or of paragraph (d) of this section.

(d) Any foreign-owned vehicle, aircraft, or undocumented boat brought into the United States for the purpose of carrying merchandise or passengers between points in the United States for hire or as an element of a commercial transaction, except as stated in the parenthetical matter in paragraph (b) of this section, is subject to treatment as an importation of merchandise from a foreign country and a regular entry therefor shall be made. Any such vehicle, aircraft, or boat so used without a proper entry having been made shall be subject to forfeiture under section 592, Tariff Act of 1930.

(e) Materials and equipment for use in building a bridge or tunnel over or under water between the United States and a foreign country shall be admitted without entry or the payment of duty provided the material is for installation in the bridge or tunnel proper, and not in the approaches on land at the United States end of the bridge or tunnel. All articles admitted under this paragraph shall be subject to customs supervision at the expense of the builder until exported or installed.

(f) Material for the maintenance or repair of international cables under the high seas, if requiring storage in special tanks for preservation, may be placed in tanks specially bonded for the purpose and withdrawn therefrom for high-seas installation without the payment of duty and without limitation of the storage period to the usual 3-year warehousing period. International cables laid under the territorial waters of the United States but not brought on shore in the United States shall be admitted without entry or the payment of duty. With respect to international cables laid under the territorial waters of the United States but brought on shore in the United States, only that part of the cable in the United States between the point of entry into the territorial waters of the United States and the first point of support on land in the United States shall be admitted without the payment of duty.

(g) Vehicles and undocumented boats of foreign origin which are used for commercial purposes between adjoining or neighboring communities of the United States and a contiguous foreign country, such as delivery, peddlers', and service trucks, wagons, or boats, are subject to duty on first arrival, but may thereafter be admitted without entry or the payment of duty so long as they are continuously employed in international traffic.

(Sec. 14, 67 Stat. 516; 19 U.S.C. 1322)

§ 10.41a Lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments of international traffic.

(a) Lift vans, cargo vans, shipping tanks, skids, pallets, caul boards, and cores for textile fabrics, arriving (whether loaded or empty) in use or to be used in the shipment of merchandise in international traffic are hereby designated as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended. The Commissioner of Customs is authorized to designate as instruments of international traffic, in decisions to be published in the weekly Treasury Decisions, such additional articles or classes of articles as he shall find should be so designated. Such instruments may be released without entry or the payment of duty, subject to the provisions of this section.[38]

(b) [Reserved]

(c) The instruments of international traffic designated in paragraph (a) of this section may be released in accordance with the provisions of that paragraph only after the applicant for such release has filed a bond with a collector of customs on customs Form 7587. When the application for release is made at a port other than that at which the bond is on file, a certified copy of the bond shall be filed at the port at which release is requested.

(d) If an instrument released under this section is diverted to point to point local traffic within the United States, or

---

[37] "(a) Vehicles and other instruments of international traffic, of any class specified by the Secretary of the Treasury, shall be granted the customary exceptions from the application of the customs laws to such extent and subject to such terms and conditions as may be prescribed in regulations or instructions of the Secretary of the Treasury." (Sec. 322, Tariff Act of 1930, as amended; 19 U.S.C. 1322)

[38] "Substantial containers and holders, if products of the United States (including shooks and staves of United States production when returned as boxes or barrels containing merchandise), or if of foreign production and previously imported and duty (if any) thereon paid, or if of a class specified by the Secretary of the Treasury as instruments of international traffic . . . Free". (Item 808.00, Tariff Schedules of the United States.)

if the instrument is otherwise withdrawn in the United States from its use as an instrument of international traffic, it becomes subject to entry and the payment of any applicable duties.

(e) The person who filed the application for release under paragraph (a) of this section shall promptly (1) notify a collector of customs at a port of entry in the United States as defined in section 401(k), Tariff Act of 1930, as amended, of such diversion or withdrawal, (2) file with the collector of customs notified a consumption entry for the instrument, and (3) pay all duties due on the instrument at the rate or rates in effect and in its condition on the date of such diversion or withdrawal.

(f) Except as provided in paragraph (h) of this section, no part of this section precludes (1) the use of an instrument in picking up and delivering loads at intervening points in the United States while en route between the port of arrival and the point of destination of its imported cargo or (2) such use during the return of the instrument from such point of destination to an exterior port of departure, when such point to point traffic is incidental to the efficient and economical utilization of the instrument in the course of its use in international traffic. Such use does not constitute a diversion to unpermitted point to point local traffic within the United States or a withdrawal of an instrument in the United States from its use as an instrument of international traffic under this section.

(g) For failure promptly to report the diversion or withdrawal or promptly to make the required entry and pay the duties due, the applicant shall be liable for the payment of liquidated damages equal to the domestic value of the instrument established in accordance with section 606, Tariff Act of 1930.

(h) Nothing in this section shall be deemed to affect the treatment of articles covered herein under the coastwise laws of the United States, with particular reference to section 883, title 46, United States Code.

(Sec. 14, 67 Stat. 516, Sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1322, 1623)

§ 10.42 Automobiles and other vehicles, boats, teams, and saddle horses taken abroad.

(a) Automobiles, aircraft, and other vehicles, boats, teams, and saddle horses of domestic origin, or of foreign origin if duty-paid, together with their accessories, taken abroad by the owner or his agent for noncommercial use and returned for the account of such owner shall be admitted without the payment of duty, except as provided for in paragraph (b) of this section, upon being satisfactorily identified.

(b) Repairs made abroad to such articles if incidental to use abroad are not subject to duty, but repairs not incidental to use abroad and alterations and additions made abroad shall be assessed with duty upon their value at the rate at which the article itself would be dutiable if imported. Accessories acquired abroad are dutiable as if separately imported.

(c) Upon the request of the owner or his agent, the collector of customs shall cause any such article to be examined before it is taken abroad and issue a certificate of registration therefor on customs Form 4455. On the return of the article, such certificate may be accepted as satisfactory identification for the purpose of admitting the article free of duty, whether the article is covered by a baggage declaration or by a regular entry, provided the article agrees with the description contained in the certificate. The State registration card for an automobile, the certificate of registration issued by the Department of Commerce for an aircraft, or the yacht license or motorboat identification certificate for a pleasure boat may be accepted under the same conditions as, and in lieu of, customs Form 4455 and be given the same force and effect.

(d) Regular entry or entry on a baggage declaration shall be required if the owner or his agent is unable to produce a proper registration card or certificate covering the article, or if duty is to be collected, or if a claim for free entry under the $200 or $300 returning resident's exemption with respect to the articles is to be made. The value of any repairs, alterations, additions, or accessories for which free entry under the $200 or $300 exemption will be claimed shall be included in a returning resident's baggage declaration, whether or not the article accompanies the resident at the time of his return to the United States.

(e) The collector shall admit, under the provisions of the convention between the United States and Mexico and regulations thereunder, without entry and without the payment of duty, stolen or embezzled motor vehicles, trailers, airplanes, or component parts of any of them, only in cases where they are accompanied by a letter from the United States Embassy in Mexico City stating that such Embassy is satisfied from information furnished it that the property, which must be adequately described in the letter for identification purposes, is stolen property being returned to the United States under the provisions of the said convention and regulations.

(f) Trucks, busses, and taxicabs, whether of foreign or domestic origin, taking out merchandise or passengers for hire or leaving empty for the purpose of bringing back merchandise or passengers for hire shall be admitted free of duty without entry on their return to the United States upon their identity being established by State registration cards. However, such vehicles taken abroad for commercial use between points in a foreign country otherwise than in the course of a regularly scheduled trip in international traffic shall be considered to have been exported and must be regularly entered on return. Trucks, busses, and taxicabs in use on regularly scheduled trips in international traffic, which regular trips may include the incidental carrying of merchandise or passengers for hire between points in a foreign country or between points in this country, shall be admitted without entry and without the payment of duty.

(g) Domestic truck, busses, and taxicabs upon which repairs have been made in a foreign country shall be subject upon reentry into the United States to a duty upon the value of the repairs at the rate at which the vehicles or other equipment would be dutiable if imported, but no such duty shall be assessed by reason of repairs required to restore any such article to the condition in which it last left the United States, by reason of "running" repairs required for the immediate safety of transportation or by reason of repairs which are incidental to the regular use of the vehicle in international traffic. For the purpose of this paragraph, trucks, busses, and taxicabs and their equipment manufactured in, or regularly imported into, the United States, and not subsequently cleared through foreign customs into another country, nor use in foreign local traffic otherwise than as an incident of the return of the equipment to the United States, shall be considered "domestic." A report of the first arrival in the United States of such trucks, busses, and taxicabs after they have been repaired in a foreign country shall be made promptly, in writing, to the United States Customs at the port of entry, such report to state the time and place of arrival and the nature and value of the repairs.

(Sec. 14, 67 Stat. 516, sec. 101, 76 Stat. 72; 19 U.S.C. 1322; Sch. 8, pt. 1, Tariff Schedules of the United States)

ARTICLES FOR INSTITUTIONS

§ 10.43 Requirements on entry.

(a) The importer of articles claimed to be exempt from duty under item 850.10, 850.40, 850.70, 851.10, 851.20, 851.30, 851.40, or 851.50, Tariff Schedules of the United States,[29] shall file, as evi-

[29] "Articles imported for the use of an institution established solely for religious purposes:

"Books, charts, paintings, pastels, drawings, sketches, engravings, etchings, lithographs, woodcuts, maps, music, sound recordings, and photographic or other prints, all the foregoing whether bound or unbound, and exposed photographic films (including motion-picture films) whether or not developed * * *" (Item 850.10, Tariff Schedules of the United States.)

"Regalia * * *" (Item 850.40, Tariff Schedules of the United States).

"Articles imported for the use of an institution organized and operated for religious purposes, including cemeteries, schools, hospitals, orphanages, and similar nonprofit activities staffed and controlled by such institution: Altars, pulpits, communion tables, baptismal fonts, shrines, mosaics, iconostases, or parts, appurtenances, or adjuncts of any of the foregoing, whether to be physically joined thereto or not, and statuary (except granite or marble cemetery headstones, granite or marble grave markers, and granite or marble feature memorials, and except casts of plaster of Paris, or of compositions of paper or papier-mache) * * *." (Item 850.70, Tariff Schedules of the United States.)

"Articles imported for the use of any public library, and other public institution, or any institution established solely for educational, scientific, literary, or philosophical purposes, or for the encouragement of the fine arts:

"Books, charts, paintings, pastels, drawings, sketches, engravings, etchings, lithographs, woodcuts, maps, music, sound recordings, and photographic or other prints, all the foregoing whether bound or unbound, and exposed photographic films (including

dence that such articles are entitled to free entry, a declaration on Customs Form 3321 of an executive officer or other authorized representative of the institution for the use of which the articles are imported. If this declaration is not filed at the time of entry, the importer may deposit the estimated duties payable when the articles are not free of duty or post bond for the subsequent production of the declaration. (See § 25.16(c) of the regulations of this chapter.)

(b) The collector may require a copy of the charter or other evidence of the character of the institution for the use of which the articles are imported.

(c) When articles are claimed to be free under item 737.05, Tariff Schedules of the United States,[40] the collector may require a declaration as to the use to be made of the articles.

§ 10.44 Declaration of importer of record.

When the importer of record of articles claimed to be exempt from duty under item 850.10, 850.40, 850.70, 851.10, 851.20, 851.30, 851.40 or 851.50, Tariff Schedules of the United States, is not the institution for the use of which the articles are imported, the importer of record shall file a declaration on customs Form 3321 identifying the institution for the use of which the articles were imported.

§ 10.45 Serial publications; list of publications.

One declaration may be made for books or other publications issued serially and imported in installments. A list shall be filed with the declaration on entry of the first importation of the publication, which list shall be signed by the importer immediately below the last-mentioned article in such list. Subsequent installments may be admitted free upon declaration of the importer that they are included in the list already filed.

(Sec. 485(b), 46 Stat. 724; 19 U.S.C. 1485(b))

§ 10.46 Articles for the United States.

Pursuant to items 830.00 and 831.00, Tariff Schedules of the United States,[41] books, engravings, and other articles therein enumerated, which are imported by authority or for the use of the United States or for the use of the Library of Congress, shall be admitted free of duty upon compliance with §§ 10.43–10.45, or upon the written request of the head of the bureau or executive department concerned.

Works of Art

§ 10.48 Original paintings, engravings, drawings, sculpture, etc.

(a) Invoices covering works of art claimed to be free of duty under items 765.05, 765.10, 765.15, 765.20, 765.25, Tariff Schedules of the United States,[42] shall show whether they are originals, replicas, reproductions, or copies, and also the name of the artist who produced them, unless upon examination the appraiser is satisfied that such statement is not necessary to a proper determination of the facts.

(b) The following evidence shall be filed in connection with the entry:

(1) A declaration in the following form by the artist who produced the article, showing whether it is original, or, in the case of sculpture, the original work or model or one of the first ten castings, replicas, or reproductions made from the original work or model; and in the case of etchings, engravings, woodcuts, lithographs, or prints made by other hand transfer processes, that they were printed by hand from hand-etched, hand-drawn, or hand-engraved plates, stones, or blocks:

I, _____, do hereby declare that I am the painter or producer of certain works of art, viz:_____

_____

_____

covered by the annexed invoice dated _____; that the said paintings, pastels, mosaics, drawings and/or sketches are originals; that the said sculptures or statuary are the original works or models or one of the first ten castings, replicas, or reproductions made from the sculptor's original work or model; and that the said etchings, engravings, woodcuts, lithographs, or prints made by other hand-transfer processes were printed by hand from hand-etched, hand-drawn, or hand-engraved plates, stones, or blocks.

(2) A declaration of the seller or shipper giving the information specified in subparagraph (1) of this paragraph, if it be shown that it is impossible to produce the declaration of the artist.

(3) A declaration of the importer on customs Form 3307.

(c) The declaration of the artist, or the declaration of the seller or shipper in lieu thereof, may be waived upon a satisfactory showing that it is impossible to produce either, but the declaration of the importer shall be required in all cases.

(d) Artists' proof etchings, engravings, woodcuts, lithographs, or prints made by other hand transfer processes should bear the genuine signature or mark of the artist as evidence of their authenticity. In the absence of such a signature or mark, other evidence shall be required which will establish the authenticity of the work to the satisfaction of the collector.

(e) In the case of articles claimed to be free under item 765.25, Tariff Schedules of the United States, the collector may require proof of the character of the article, including, when necessary, certificates from curators or other recognized authorities on art, that the imported article represents some school, kind, or medium of the free fine arts.

§ 10.49 Articles for exhibition; requirements on entry.

(a) There shall be filed in connection with the entry of works of art and other articles claimed to be free of duty under schedule 8, part 5B, Tariff Schedules of the United States,[43] a declaration by a

---

motion-picture films) whether or not developed * * *." (Item 851.10, Tariff Schedules of the United States.)

"Regalia * * *." (Item 851.30, Tariff Schedules of the United States.)

"Any textile machine or machinery, or part thereof solely for the instruction of students * * *." Item 851.40, Tariff Schedules of the United States.)

"Models of inventions and of other improvements in the arts, to be used exclusively as exhibits in exhibition at any such institution * * *." (Item 851.50, Tariff Schedules of the United States.)

[40] "Models of inventions and of other improvements in the arts, to be used exclusively as models * * *." (Item 737.05, Tariff Schedules of the United States.)

[41] "Articles for the use of any agency of the United States Government: Books, charts, engravings, etchings, maps, photographic prints, whether bound or unbound, and exposed photographic films (including motion-picture films) whether or not developed * * *." (Item 830.00, Tariff Schedules of the United States.)

"Articles for the Department of State: Sound recordings for use by it in the program authorized by the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431–1479) * * *." (Item 831.00, Tariff Schedules of the United States.)

[42] "Paintings, pastels, drawings, and sketches, all the foregoing, whether or not originals, executed wholly by hand: Originals * * *." (Item 765.05, Tariff Schedules of the United States.)

"Engravings, etchings, lithographs, woodcuts, and other prints, all the foregoing, unbound, and printed by hand from plates, stones, or blocks, etched, drawn, or engraved with hand tools * * *." (Item 765.10, Tariff Schedules of the United States.)

"Original sculptures and statuary (including the first 10 castings, replicas, or reproductions made from a sculptor's original work or model with or without a change in scale and whether or not the sculptor is alive at the time the castings, replicas, or reproductions are completed), all the foregoing made in any form from any material as the professional productions of sculptors only whether in round or in relief, and whether cut, carved, or otherwise wrought by hand or cast * * *." (Item 765.15, Tariff Schedules of the United States.)

"Original mosaics * * *." (Item 765.20, Tariff Schedules of the United States.)

"Original works of the free fine arts not provided for in the foregoing provisions of this part, in any media including, but not limited to, applied paper and other materials, manufactured or otherwise, such as are used on collages * * *." (Item 765.25, Tariff Schedules of the United States.)

[43] "1. The provisions of this subpart do not apply to articles intended for sale or for any purpose other than exhibition or erecting a public monument, nor do they apply to any institution or society engaged in or connected with business of a private or commercial character. Articles admitted under item 862.10 may be transferred from an organization specified therein to another such organization, or temporarily to a commercial gallery or other premises, for exhibition and not for sale.

"2. Prior to the release of articles under item 862.10 or 862.20, bond shall be given for the payment of lawful duties which may accrue should any of the articles be sold, transferred, or used contrary to the provisions of this subpart within 5 years after the date of entry hereunder, and such articles shall be subject at any time within such 5-year period to examination and inspection by customs officers. Surety on such bonds may be waived in the discretion of the Secretary of the Treasury.

"Item 862.10 Articles imported for exhibition by any institution or society established for the encouragement of agriculture, arts, education, or science, or for such exhibition by any State or for a municipal corporation * * *."

"Item 862.20 Articles imported by any institution, society, or State, or for a municipal

qualified officer of the institution on customs Form 3325, and a bond on customs Form 7565. Claim for free entry under schedule 8, part 5B may be made for articles of the character described therein which have been previously entered under any other provision of law and the entry amended accordingly upon compliance with the requirements of this section, provided the articles have not been released from customs custody.

(b) The collector may require a copy of the charter or other evidence of the character of the institution for which the articles are imported, and may also require the production of the original of any order given by such society or institution to any importing agent or dealer for such articles.

(c) Articles entered under item 862.10, Tariff Schedules of the United States may be transferred from one institution to another upon an application in writing in the case of each transfer describing the articles and stating the name of the institution to which transfer is to be made, provided the sureties to the bond assention in writing under seal or a new bond is filed. No entry or withdrawal shall be required for such a transfer.

(d) If any of the articles accorded free entry under schedule 8, part 5B shall be sold, offered or exposed for sale, transferred, or used in any manner contrary to the provisions of the regulations in this part, within 5 years after the date of entry under such part, the amount of the duties shall be collected immediately by the collector of customs at the port of entry and deposited as duties. If the articles are exported or destroyed under customs supervision within such 5-year period, the liability under the bond shall be treated as terminated.

§ 10.50 Works of American artists.

When works of art produced by American artists residing temporarily abroad are claimed to be free of duty under item 765.30, Tariff Schedules of the United States,[45] the importer shall file a declaration of the artist which shall be on or attached to the invoice and shall state:

I, ----------, do hereby declare that I am a citizen of the United States of America, and by profession ----------;
(Artist or sculptor)
that my place of residence in the United States is ----------; that I departed from the United States of America on or about ----------, 19--, to take up my temporary residence at ----------; and that I have not given up, and that it is not my intention to give up, my residence in the United States, and I intend to return ultimately to the United States. I further declare that the ---------- described
(Briefly identify the works of art)
in the invoice herewith were produced by me during my temporary residence abroad at ----------, during the year 19--.

The declaration may be made by the artist on customs Form 3307.

§ 10.52 Painted, colored, or stained glass windows for religious institutions.

When painted, colored, or stained glass windows, or parts thereof, are claimed free of duty under item 850.30, Tariff Schedules of the United States,[47] the importer shall file in connection with the entry a declaration on customs Form 3321, declaring that the importation was designed by, and produced by or under the direction of, a professional artist, and that it is for the use of an institution established solely for religious purposes.

§ 10.53 Antiques.

(a) Regardless of the value of the articles, the invoice filed in connection with the entry of antiques and other articles provided for in items 766.20 and 766.25, Tariff Schedules of the United States,[48] shall contain a declaration by the actual foreign vendor if the merchandise is shipped in pursuance of a purchase or agreement to purchase, or by the foreign owner if the merchandise is shipped otherwise than in pursuance of a purchase or agreement to purchase, showing the name and address of the person from whom the articles were acquired by him, the date when so acquired, and, if possible, the place and approximate date of production. A declaration executed on the invoice by an agent competent to verify the value and the statements set forth in the invoice may be accepted as a sufficient compliance with this section. The declaration may be waived by the collector in any case in which he is satisfied that failure to produce it is not due to any lack of diligence or good faith on the part of the importer and that the information is not required for any purpose in connection with the classification and appraisement of the articles, provided the declaration of the owner in this country or of the person in this country importing otherwise than in pursuance of a purchase or agreement to purchase, required by paragraph (b) of this section, is supplemented by a statement of such owner or person, giving all the facts within his knowledge tending to show how long the articles have been in existence and where they were produced.

(b) A declaration on customs Form 3307, executed by (1) the owner in this country, (2) the person in this country importing otherwise than in pursuance of a purchase or agreement to purchase, or (3) a duly authorized agent or attorney of either of the foregoing who has knowledge of the pertinent facts shall also be filed in connection with the entry.

(c) Articles brought in as passenger's baggage and entitled to entry under the passenger's declaration and entry which are claimed to be entitled to free entry as antiques may be admitted free of duty upon the execution by the passenger of a declaration on Form 3307, provided the passenger is the owner of the articles and they are not for sale or other commercial use, and provided the collector, after examination by the appraising officer, is satisfied that the articles are of the requisite age.

(d) Antiques, if of the age prescribed by items 766.20 and 766.25, Tariff Schedules of the United States, shall be admitted free of duty though repaired or renovated. If, however, an antique has been repaired with a substantial amount of additional material, without changing the original form or shape, the original and added portions shall be appraised and reported as separate entities and the basis for such report shall be plainly indicated on the invoice by the appraiser. In such cases duty shall be assessed on the portion added. If the repairs consist of an addition to an article of a feature which changes it substantially from the article originally produced, or if the antique portion has otherwise been so changed as to lose its identity as the article which was in existence prior to the time prescribed in items 766.20 and 766.25, Tariff Schedules of the United States, the entire article shall be excluded from free entry under items 766.20 and 766.25, Tariff Schedules of the United States.

(e) Furniture claimed to be free of duty under item 766.20 or 766.25, Tariff Schedules of the United States, except picture frames classifiable thereunder, may be entered for consumption only at the ports of Baltimore, Md., Boston, Mass., Chicago, Ill., Honolulu, Hawaii, Los Angeles, Calif., New Orleans, La., New York, N.Y., Philadelphia, Pa., San Francisco, Calif., and Seattle, Wash.[49] However, such furniture may be entered at any port for transportation in bond to one of the ports named herein, or to any authorized place of deposit outside one of those ports, for examination and release, as contemplated by

---

corporation, for the purpose of erecting a public monument * * *." (Schedule 8, part 5B, Tariff Schedules of the United States.)

[45] "Works of art which are productions of American artists residing temporary abroad * * *." (Item 765.30, Tariff Schedules of the United States.)

[47] "Painted, colored, or stained glass windows and parts thereof, all the foregoing valued over $15 per square foot and designed by, and produced by or under the direction of, a professional artist * * *." (Item 850.30, Tariff Schedules of the United States.)

[48] "Rugs and carpets made prior to the year 1701; violins, violas, violincellos, and double basses of all sizes, made prior to the year 1801; ethnographic objects made in traditional aboriginal styles and made at least 50 years prior to their date of entry; and other antiques made prior to the year 1830 (except rugs and carpets, violins, violas, violincellos, and double basses, and ethnographic objects made in traditional aboriginal styles); all the foregoing articles, including such articles which have been repaired or renovated without changing their original form or character:

"If repaired with a substantial amount of additional material within 3 years prior to importation * * * a duty upon the value of the repairs at the rate which would apply to the article itself in its repaired condition if not within the purview of this subpart.

"Other * * * Free" (Items 766.20, 766.25, Tariff Schedules of the United States.)

[49] "Furniture" as used in this section of the regulations is defined as "movable articles of convenience or decoration for use in furnishing a house, apartment, place of business, or of accommodation". This definition embraces most articles claimed to be free of duty as antiques.

"Except for picture frames, the provisions of items 766.20 and 766.25 do not apply to movable articles of convenience or decoration designed for use in furnishing a house, apartment, place of business or of accommodation, unless such articles are entered at ports designated by the Secretary of the Treasury for such purpose. Antique picture frames may be entered at any port of entry." (Schedule 7, Part 11B, headnote 2, Tariff Schedules of the United States.)

section 484(f), Tariff Act of 1930, as amended, if the port of entry designated in the transportation entry is one at which furniture may be entered for consumption and there is a compliance with the procedure prescribed by § 18.11(c) of this chapter.

(f) A claim for the free entry of an article under items 766.20 and 766.25, Tariff Schedules of the United States on the basis of antiquity may be made on the entry, or filed after entry at any time prior to liquidation of the entry, provided the article has not been released from customs custody or it has been found upon examination before such release to be described in items 766.20 and 766.25, Tariff Schedules of the United States.

(g) In the case of furniture previously entered at a port not designated for the entry of antique furniture, a claim for free entry under items 766.20 and 766.25, Tariff Schedules of the United States shall not be considered after the appraiser has made his report in the case of articles not imported for sale, or after the examination of the articles for the purpose of appraisement or classification has begun in the case of articles imported for sale. If such a claim is made before that time at such port, the entry shall be canceled and, if the importer does not enter the articles for exportation or for shipment in bond to a port designated for the entry of antique furniture, the articles shall be treated as unclaimed.

(h) The additional duty of 25 percent imposed by item 766.30, Tariff Schedules of the United States,[50] shall apply to any article which is imported for sale and claimed, either at the time of entry or at a later date, to be free of duty under items 766.20 and 766.25, Tariff Schedules of the United States if such article is later found to be unauthentic in respect of the antiquity claimed as a basis for such free entry, unless the claim under items 766.20 and 766.25, Tariff Schedules of the United States is withdrawn in writing before the examination of the article for the purpose of appraisement or classification has begun.

(i) The 25 percent additional duty provided for in item 766.30, Tariff Schedules of the United States shall not be assessed if the importer establishes by evidence satisfactory to the collector that the article was not imported for sale. In the case of any article imported in a passenger's baggage, the collector may accept the statement of the passenger that the article was not imported for sale if he is satisfied of the truth of such statement.

(Sec. 481, 46 Stat. 719; 19 U.S.C. 1481)

§ 10.54 Gobelin and other hand-woven tapestries.

(a) Pursuant to item 364.05, Tariff Schedules of the United States,[51] Gobelin tapestries produced in the Manufacture Nationale des Gobelins factories at Paris and Beauvais under the direction and control of the French Government, and other hand-woven tapestries, shall be accorded free entry if of a kind fit only for use as wall hangings, and valued over $20 per square foot.

(b) A certificate executed by the manager or other responsible employee of the Gobelin or other factory or producer establishing the character of the article shall accompany the invoice. If the absence of such a certificate is satisfactorily explained, other evidence establishing the necessary facts may be accepted.

Vegetable Oils

§ 10.56 Vegetable oils, denaturing; release.

(a) Olive, palm-kernel, rapeseed, sunflower, and sesame oil shall be classifiable under items 176.28, 176.32, 176.44, 176.45, 176.49, or 176.54, Tariff Schedules of the United States, if denatured abroad or under customs supervision after importation but before release from customs custody, at the request and expense of the importer, by a formula prescribed by the Bureau, or if by their method of production abroad they are rendered unfit for use as food or for any but mechanical or manufacturing purposes.

(b) Each cask or package of oil claimed to have been before importation denatured or otherwise rendered unfit for use as food or for any but mechanical or manufacturing purposes shall be sampled and tested by an appraising officer.

(c) Formulas prescribed by the Bureau, except proprietary mixtures, will be circulated to all customs officers and will appear as abstracts of Bureau of Customs decisions published in the weekly Treasury Decisions. Proprietary mixtures approved by the Commissioner of Customs will not be published but appropriate notice of their approval will be given to all customs officers.

(d) The Bureau will from time to time prescribe additional formulas, and will consider any formula for special denaturing that may be submitted.

(e) The collector may, if he deems it advisable, require an importer requesting permission to use any authorized denaturant to submit to the appraiser an adequate sample of such denaturant, in order that the appraiser may report to the collector whether or not such denaturant is suitable for rendering the oil unfit for use as food or for any but mechanical or manufacturing purposes.

(f) No such oil shall be released free of duty until the appraiser shall have made a special report that it has been properly denatured and the owner or consignee shall have filed with the collector a declaration on customs Form 3339.

Potatoes, Corn, or Maize

§ 10.57 Certified seed potatoes, and seed corn or maize.

Claim for classification as seed potatoes under item 137.20, Tariff Schedules of the United States, or as seed corn or maize under item 130.30, Tariff Schedules of the United States, shall be made at the time of entry. Such classification shall be allowed only if the articles are white or Irish potatoes, or maize or corn, imported in containers and if, at the time of importation, there is firmly affixed to each container an official tag supplied by the government of the country in which the contents were grown, or an agency of such government. The tag shall bear a certificate to the effect that the specified contents of the container were grown, and have been approved, especially for use as seed. The tag shall also bear a number or other symbol identifying the potatoes or corn in the container with an inspection record of the foreign government or its agency on the basis of which the certificate was issued.

Bolting Cloths

§ 10.58 Bolting cloths; marking.

(a) As a prerequisite to the free entry of bolting cloth for milling purposes under item 357.25, Tariff Schedules of the United States,[53] the cloth shall be indelibly marked from selvage to selvage at intervals of not more than 4 inches with the words "bolting cloth expressly for milling purposes" in block letters 3 inches in height. Such cloth shall be allowed free entry only under the following conditions:

(1) Bolting cloths composed of silk imported expressly for milling purposes shall be considered only such cloths as are suitable for and are used in the act or process of grading, screening, bolting, separating, classifying, or sifting dry materials, or of dry materials mixed with water, if the water is merely a carrying medium.

(2) If an importer is a manufacturer of mills or machines for any process described above, or conducts a business wherein any act or process described above, constitutes an activity, he shall file with the collector of customs in connection with the entry a certificate that he is such a manufacturer or conducts such a business and that such bolting cloths are imported expressly for milling purposes.

(3) If bolting cloths are imported by an agent in fulfillment of an accepted order, the importer shall file with the collector of customs in connection with the entry a certificate showing the name of the actual purchaser of such bolting cloths and that such purchaser is a manufacturer or conducts a business as described, or conducts a business for the purpose of supplying such manufacturers and businesses.

(4) If bolting cloths are imported for stock, the importer shall file with the collector of customs in connection with the entry a certificate to the effect that he imports such bolting cloths expressly for

---

[50] "Any article imported for sale and claimed to be classifiable under item 766.20 or item 766.25, and thereafter determined to be not authentic in respect to the antiquity claimed as a basis for classification thereunder * * * a duty of 25 percent ad val. in addition to any other duty imposed on such article under these schedules" (Item 766.30, Tariff Schedules of the United States.)

[51] "Gobelin and other hand-woven tapestries fit only for use as wall hangings, and valued over $20 per square foot * * *." (Item 364.05, Tariff Schedules of the United States.)

[53] "Woven bolting cloths, * * * Wholly of silk, imported to be used for milling purposes, and marked so as to be fit only for such purposes * * *." (Item 357.25, Tariff Schedules of the United States.)

the purpose of supplying manufacturers and businesses as described, or of supplying other firms who in turn supply manufacturers and businesses as described.

(b) Bolting cloths not marked in the manner above indicated at the time of importation may be so marked by the importers in public stores under the supervision of customs officers.

WITHDRAWAL OF SUPPLIES AND EQUIPMENT FOR VESSELS

§ 10.59 Exemption from customs duties and internal-revenue tax.[55]

(a) A vessel shall not be considered to be actually engaged in the foreign trade, or in trade between the Atlantic and Pacific ports of the United States, or between the United States and its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, as the case may be, for the purpose of withdrawing supplies free of duty and internal-revenue tax pursuant to section 309(a), Tariff Act of 1930, as amended, unless it is—

(1) Operating on a regular schedule in a class of trade which entitles it to the privilege;

(2) Actually transporting passengers or merchandise to or from a foreign port, a port on the opposite coast of the United States, or between a port in a possession of the United States and a port in the United States or in another of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States;

(3) Departing in ballast (without cargo or passengers) from one port for another, domestic or foreign, for the purpose of lading passengers or cargo at the port of destination for carriage in a class of trade specified in section 309 (a), Tariff Act of 1930, as amended, for which class of trade the vessel is suitable and substantially ready for service with necessary fittings, outfit, and equipment already installed on its departure in ballast, and from which it is not diverted prior to carriage of passengers or cargo in such trade. A written declaration of the owner or agent of the vessel may be required in connection with the withdrawal, certifying to the vessel's suitableness and substantial readiness with necessary fittings, outfit, and equipment already installed on its departure in ballast for service in a class of trade specified in section 309 and agreeing to notify the collector if it is laid up or diverted from such class of trade prior to the carriage of cargo or passengers in such trade.

(b) A withdrawal of articles may not be made under section 309, Tariff Act of 1930, as amended, for use on a trial or test trip of a vessel preparatory to its actually engaging in trades.

(c) The classes of articles which may be withdrawn as provided for by section 309, Tariff Act of 1930, as amended, include the containers in which the articles are withdrawn and laden even though for tariff purposes the containers are classifiable separately from their contents, except unusual containers within the purview of general headnote 6, Tariff Schedules of the United States.

(d) For the purpose of allowing the privileges of section 309, Tariff Act of 1930, as amended, to aircraft as provided for therein, an aircraft shall be deemed to be a vessel within the meaning of each provision of this section and of §§ 10.60–10.64 which may be applied to aircraft.

(e) Vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over may be allowed to withdraw distilled spirits (including alcohol), wines, and beer conditionally free under section 309 of the Tariff Act of 1930, as amended, if the collector is satisfied from the quantity requested, in the light of (1) whether the vessel is employed in substantially continuous fishing activities, and (2) the vessel's complement, that none of the withdrawn articles is intended to be removed from the vessel in, or otherwise returned to, the United States without the payment of duty or tax. Such withdrawal shall be permitted only after the approval by the collector of a special written application, in duplicate, on customs Form 5125, of the withdrawer, supported by a bond on customs Form 7603 executed by the withdrawer. Such application shall be filed with customs Form 7506 or 7512,[57] as the case may be. The original application, after approval, shall be stamped with the withdrawal number and date thereof and shall be returned to the withdrawer for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented thereafter by the withdrawer or the vessel's master to the collector within 24 hours (excluding Saturday, Sunday, and holidays) after each subsequent arrival of the vessel at a customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the articles until the collector is satisfied that all of them have been consumed on board, or landed under customs supervision, and takes up the authorization. The approval shall be subject to the further conditions that any such withdrawn article remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the collector for the port or place of arrival shall deem necessary and that failure to comply with the conditions upon which a conditionally free withdrawal is approved shall subject the total quantity of withdrawn articles to the assessment and collection of an amount equal to the duties and taxes that would have been assessed on the entire quantity of supplies withdrawn had such supplies been regularly entered, or withdrawn, for consumption.

(Sec. 309(a), 46 Stat. 690, as amended; 19 U.S.C. 1309(a))

§ 10.60 Forms of withdrawals; bond.

(a) Withdrawals from warehouse shall be made on customs Form 7506. Each withdrawal shall contain the statement prescribed for withdrawals in § 8.37(b) of

---

[55] "(a) *Exemption from customs duties and internal-revenue tax.* Articles of foreign or domestic origin may be withdrawn, under such regulations as the Secretary of the Treasury may prescribe, from any customs bonded warehouse, from continuous customs customs elsewhere than in a bonded warehouse, or from a foreign-trade zone free of duty and internal-revenue tax, or from any internal-revenue bonded warehouse, from any brewery, or from any winery premises or bonded premises for the storage of wine, free of internal-revenue tax—

"(1) for supplies (not including equipment) of (A) vessels or aircraft operated by the United States, (B) vessels of the United States employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other port of the United States, or (C) aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States; or

"(2) for supplies (including equipment) or repair of (A) vessels of war of any foreign nation, or (B) foreign vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where such trade by foreign vessels is permitted; or

"(3) for supplies (including equipment), ground equipment, maintenance, or repair of aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where trade by foreign aircraft is permitted. With respect to articles for ground equipment, the exemption hereunder shall apply only to duties and to taxes imposed upon or by reason of importation.

"The provisions for free withdrawals made by this subsection (a) shall not apply to petroleum products for vessels or aircraft in voyages or flights exclusively between Hawaii or Alaska and any airport or Pacific coast seaport of the United States."

* * * * *

"(d) *Reciprocal privileges.* The privileges granted by this section and section 317 of this Act in respect of aircraft registered in a foreign country shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that he has found that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted by this section and such section 317 shall not apply thereafter in respect of aircraft registered in that foreign country." (Tariff Act of 1930, sec. 309, as amended; 19 U.S.C. 1309)

[57] Exemption from internal-revenue tax on distilled spirits, alcohol, wines, and beer removed from any internal-revenue bonded warehouse, industrial alcohol premises, bonded wine cellar, or brewery; and drawback on taxpaid distilled spirits or wines removed from an export storage room, or on taxpaid beer removed from a brewery (or place of storage elsewhere), for use as supplies on vessels under section 309, Tariff Act of 1930, as amended, are governed by regulations of the Internal Revenue Service.

this chapter. Withdrawals from continuous customs custody elsewhere than in a bonded warehouse shall be made on customs Form 7512, except as provided for by paragraph (h) of this section. When a withdrawal of supplies or other articles is made which may be used on a vessel while it is proceeding in ballast to another port as provided for by § 10.59 (a) (3), a notation of this fact shall be made on the withdrawal and the name of the other port given if known.

(b) If the withdrawal is made by other than the principal on the warehouse or rewarehouse entry, as the case may be, the assent of such principal shall be endorsed on the withdrawal, unless the principal has otherwise authorized such withdrawal in writing.

(c) A bond on customs Form 7561 or other appropriate form shall be taken when the withdrawal from warehouse is made by a person other than the principal on the warehouse or rewarehouse entry, as provided for in paragraph (b) of this section.

(d) When the supplies are to be laden at a port other than the port of withdrawal from warehouse, they shall be withdrawn for transportation in bond to the port of lading. Three copies of the manifest on customs Form 7512, in addition to six copies of the withdrawal on customs Form 7506, shall be required. The procedure shall be the same as that prescribed in § 18.19 (b) of this chapter (the six copies of customs Form 7506 taking the place of the entry copies of customs Form 7512).

(e) No bond shall be required in the case of war vessels.

(f) Unless transfer is permitted under the provisions of paragraph (h) of this section, when articles are withdrawn from continuous customs custody elsewhere than in a bonded warehouse for lading at the port of withdrawal, the procedure provided for in § 18.25 of this chapter shall be followed, except that the bond required shall be on customs Form 7557, 7559, or 7595. Unless transfer is permitted under the provisions of paragraph (h) of this section, when articles are withdrawn from continuous customs custody elsewhere than in a bonded warehouse for lading at another port, the procedure set forth in § 18.26 of this chapter shall be followed, except that the withdrawal when filed shall be supported by a bond on customs Form 7557, 7559, or 7595. There shall be such examination of the articles as may be necessary to satisfy the collector that they are subject to the privileges of section 309, Tariff Act of 1930, as amended, and that the value and quantity declared for them are correct.

(g) A withdrawal under § 10.59 (e) shall be supported by a bond on customs Form 7603 in lieu of any other bond.

(h) If a request is made for permission to transfer supplies or stores from one vessel to another which would be entitled to withdraw them free of duty and tax under section 309 or 317, Tariff Act of 1930, as amended, the collector in his discretion may permit the articles to be so transferred under customs supervision under a permit on customs Form 3171 in lieu of a formal withdrawal under the pertinent statute. In such a case, the pertinent statute shall be indicated by an endorsement made on the permit by the collector.

(Sec. 309, 46 Stat. 690, as amended; 19 U. S. C. 1309)

§ 10.61 Withdrawal permit.

Upon the filing of the withdrawal and the execution of the bond, when required, the collector shall issue a permit on customs Form 7506 or 7512.

(Sec. 309(a), 46 Stat. 690, as amended; 19 U.S.C. 1309(a))

§ 10.62 Bunker oil.

(a) When fuel oil is withdrawn under section 309, Tariff Act of 1930, as amended, for delivery by barge or lighter to the vessel on which it is to be used, sealing of the transporting vessel, the issuance of a lighterage ticket or other document to cover the transportation for delivery, and immediate customs supervision of the transfer of the oil from the delivering vessel to the vessel on which it is to be used may be dispensed with if the person making the withdrawal undertakes to file with the customs warehouse officer in charge of the bonded tank from which the oil is to be withdrawn the following:

(1) A legible receipt signed by the master or person in charge of the delivering vessel, showing—

(i) The respective quantities of (a) bonded fuel oil and (b) domestic fuel oil on the delivering vessel at the time the oil covered by the current withdrawal is laden on such vessel;

(ii) The quantity of oil laden on the delivering vessel from the bonded tank under the withdrawal;

(iii) The date the oil was laden on his vessel; and

(iv) The quantity of the oil remaining on his vessel after delivery to the vessel on which the oil is to be used.

(2) A legible copy of the receipt given to the master or person in charge of the delivering vessel by the receiving officer of the vessel on which the oil is to be used, showing—

(i) The number of the warehouse entry covering the oil;

(ii) The number of the vessel supply withdrawal covering the oil;

(iii) The number or other identification of the sales order for the oil;

(iv) The identification number of the delivering vessel;

(v) The name and location of the vessel to which the oil was delivered for use;

(vi) The quantity of oil delivered to such vessel;

(vii) The date of delivery to such vessel; and

(viii) The signature and title of the officer receiving the oil on such vessel.

(b) When the procedure prescribed in paragraph (a) of this section is followed, representatives of the Commissioner of Customs will from time to time verify various withdrawals against all pertinent records, including financial records, of the withdrawers, deliverers, and receivers of the oil.

(Sec. 309(a), 46 Stat. 690, as amended; 19 U.S.C. 1309(a))

§ 10.63 Landing of supplies and stores from receiving vessel in the United States.

Supplies or stores laden on a vessel duty and tax free under section 309, Tariff Act of 1930, as amended, may be landed under customs supervision under proper permit, the same as if they had been laden in a foreign country. See §§ 4.39 and 23.4 of this chapter. Except when transfer to another vessel entitled to the free withdrawal privilege is permitted under the original withdrawal under section 309, Tariff Act of 1930, as amended, the landed articles shall be treated as an importation from a foreign country.[53]

(Sec. 309(a), 46 Stat. 690, as amended; 19 U.S.C. 1309(a))

§ 10.64 Crediting or cancellation of bonds.

(a) Except as stated below, the warehouse or rewarehouse entry bond or the bond identified in § 10.60 (c) or (f) for articles withdrawn under section 309, Tariff Act of 1930, as amended, for use as supplies, equipment, or for repair of a vessel may be credited or canceled in respect of such articles upon the vessel's departure from the port of lading in a class of trade or business entitling the articles to exemption from duty and tax under the statute. If the vessel is not operated by the United States and proceeds in ballast from the port where the articles are laden to another port to lade passengers or cargo for carriage in a class of trade specified in section 309, Tariff Act of 1930, as amended, the bond may be credited or canceled upon the filing with the collector at the port of withdrawal within 3 months after the date of withdrawal of a proper declaration as prescribed below. The declaration shall be executed by one of the following who has knowledge of the facts:

(1) The operations manager or port captain for the vessel on which the articles are laden but not a representative of the supplier.

(2) The master or other officer of the vessel on which the articles are laden.

The declaration shall be in substantially the following form:

I, _____
(Operations manager, port captain, master, or other officer)
of the vessel _____ declare that I have knowledge of the facts set forth herein, and that upon the lading of the articles described below covered by withdrawal No. _____, filed at _____, the vessel then proceeded
(Name of port)
in ballast to _____ to lade cargo or
(Name of port)
passengers; that the vessel was suitable for

---

[53] (c) Articles removed in, or returned to, the United States. Any article exempted from duty or tax, or in respect of which drawback has been allowed, under this section or section 317 of this Act and thereafter removed in the United States from any vessel or aircraft, or otherwise returned to the United States, shall be treated as an importation from a foreign country.

service in the class of trade checked below

service in the class of trade checked below with fittings, outfit, and equipment for such trade already installed when it so departed in ballast; and that upon arrival it proceeded to engage in the carriage of cargo or passengers in such trade, except as stated below:

(If no exception, note "None")

1. Foreign Trade.
2. Trade between Atlantic and Pacific ports of the United States, when such trade is not prohibited by coastwise laws.
3. Trade between the United States and any of its possessions, when such trade is not prohibited by coastwise laws.
4. Trade between Alaska or Hawaii and any other part of the United States, when such trade is not prohibited by coastwise laws.

Description of articles:

(Name and title)

(b) A declaration as to the intended business or trade of a vessel may, in the discretion of the collector, be accepted in lieu of a declaration prescribed in paragraph (a) of this section when the amount of duty or tax, or both, involved in a single lading is less than $100.

(Sec. 309, 46 Stat. 690, as amended; 19 U. S. C. 1309)

§ 10.65 Tobacco products.

(a) Imported manufactured tobacco, cigars, and cigarettes in bonded warehouse or otherwise in customs custody, and such articles manufactured with the use of imported materials in a bonded manufacturing warehouse of class 6, may be withdrawn under section 317, Tariff Act of 1930, as amended,[59] for consumption beginning beyond the 3-mile limit or international boundary, as the case may be, (1) on vessels actually engaged in the foreign, intercoastal, or noncontiguous territory trade within the purview of § 10.59(a); (2) on vessels departing from the port where the withdrawal is made directly for a foreign port, a port on the opposite coast, or a port in one of the possessions of the United States; or (3) on vessels of war or other governmental activity.

(b) The privilege shall not be granted to vessels stationed in American waters for an indefinite period without sailing schedules.

(c) With the following additions and exceptions, the same procedure shall be followed as in the case of withdrawals under section 309 (a), Tariff Act of 1930, as amended.

(1) No bond shall be required in the case of vessels operated by the United States Government.

(2) When a shipping case containing tobacco products is made up of a number of units, each in a separate package, such units may be withdrawn separately, provided each unit is marked and numbered for identification and contains not less than 250 cigars or 1,000 cigarettes, or 5 pounds of manufactured tobacco. In the case of imported tobacco products so packed, only one unit from each shipping case shall be opened for examination, unless the appraiser shall deem it necessary for the protection of the revenue to examine a greater quantity.[60]

(3) When all the units in such shipping case are not to be withdrawn at the same time or for use on the same vessel, a blanket withdrawal may be filed for the entire case in lieu of a separate withdrawal for each unit. In such event, the withdrawal shall be retained by the customs warehouse officer until delivery receipts are obtained for the entire quantity covered by the withdrawal, provided the total period of time during which the merchandise remains in bonded warehouse does not exceed 3 years. The bond on customs Form 7561 or other appropriate form, when required, shall be filed at the time of or prior to the removal of any of the merchandise from the warehouse for delivery to the vessel on which it is to be used.

(4) Merchandise for which blanket withdrawals are filed shall be stored in a separate room or enclosure in a bonded warehouse under separate locks, and shall be inventoried at least once each month. If, at the time of any such inventory, any merchandise is missing and not properly accounted for, duties shall be paid thereon before any further withdrawals are permitted.

(5) The declaration of use, when required, shall include a statement that consumption of the articles covered by the withdrawal did not begin until the withdrawing vessel or aircraft had proceeded beyond the 3-mile limit or the international boundary.

(Sec. 317, 46 Stat. 696, as amended; 19 U. S. C. 1317)

ARTICLES EXPORTED FOR EXHIBITION, ETC.

§ 10.66 Articles exported for temporary exhibition and returned; procedure on entry.

(a) In connection with the entry of articles, including livestock or other animals, exported for temporary exhibition and returned and claimed to be exempt from duty under item 802.20[61] or item 802.30,[62] Tariff Schedules of the United States, there shall be filed:

(1) A certificate of exportation, customs Form 4467;

(2) A declaration by the foreign shipper, irrespective of the value of the shipment, stating:

I, _____, do hereby declare that the merchandise herein described was imported from the United States, and that it was sent to _____ for temporary use at the Exhibition entitled _____, held at _____ on _____, 19__.

(Date and place of signing)

(Signature of exporter or authorized agent)

(3) A declaration of the importer on customs Form 3329 for articles of either domestic or foreign origin; and

(4) In the case of animals of foreign origin taken aboard for exhibition in connection with a circus or menagerie, a copy of an inventory of these animals filed prior to their leaving the country with the collector of customs at the port of their departure.

(b) If it is shown to be impracticable to produce the certificate of exportation required under paragraph (a) (1) of this section, the collector may accept other satisfactory evidence of exportation, or may take a bond to secure the production of such certificate or other evidence. A bond shall also be taken to secure the production of the foreign shipper's declaration required by paragraph (a) (2) of this section if it is not filed at the time of entry.

(c) If, prior to the exportation of articles claimed to be exempt from duty under item 802.20 or item 802.30, Tariff Schedules of the United States, an application on customs Form 4455 (accompanied by an appropriate inventory, when required by law or by the collector or appraiser) was filed with a declaration thereon that any right to drawback of customs duties with respect to that shipment was waived, and that any internal-revenue tax due has been paid and no refund thereof will be sought, and the merchandise was identified, registered, and exported in accordance with the regulations set forth in § 10.8 (d), (f), (g), and (h) governing the exportation

---

[59] "(a) The shipment or delivery of manufactured tobacco, snuff, cigars, or cigarettes, for consumption beyond the jurisdiction of the internal-revenue laws of the United States, as defined by section 2197(a) of 26 U.S.C., shall be deemed exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such articles without payment of duty or internal-revenue tax.

"(b) The shipment or delivery of any merchandise for use as supplies (including equipment) upon, or in the maintenance or repair of any vessel or aircraft described in subdivision (2) or (3) of section 309 (a) of this Act, or for use as ground equipment for any such aircraft, shall be deemed an exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such merchandise without the payment of duty or internal-revenue tax. With respect to merchandise for use as ground equipment, such shipment or delivery shall not be deemed an exportation within the meaning of the internal-revenue laws relating to taxes other than those imposed upon or by reason of importation." (Tariff Act of 1930, sec. 317, as amended; 19 U. S. C. 1317)

"The internal revenue laws imposing taxes on tobacco, snuff, cigars, or cigarettes shall be held to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same be within a collection district or not." (26 U. S. C. 2197 (a))

[60] Imported tobacco products on which the duty or internal-revenue tax has been paid may not be withdrawn under section 317, Tariff Act of 1930, as amended, with a drawback of such duty or internal-revenue tax.

[61] "Articles, when returned after having been exported for use temporarily abroad solely for any of the following purposes, if imported by or for the account of the person who exported them: * * * Exhibition in connection with any circus or menagerie * * *." (Item 802.20, Tariff Schedules of the United States.)

[62] "Articles, when returned after having been exported for use temporarily abroad solely for any of the following purposes, if imported by or for the account of the person who exported them: * * * Exhibition or use at any public exposition, [illegible], or conference * * *." (Item 802.30, Tariff Schedules of the United States.)

of articles sent abroad for repairs, such articles may be returned free of duty without formal entry, without regard to the requirements of paragraphs (a) and (b) of this section, upon the filing of said duplicate customs Form 4455 (with accompanying inventory, if one was required), and a declaration of the importer on customs Form 3329.

§ 10.67 Articles exported for scientific or educational purposes and returned; procedure on entry.

(a) In connection with each entry of articles exported for scientific or educational purposes and returned under item 802.10, Tariff Schedules of the United States,[43] the following shall be required, irrespective of the value of the shipment:

(1) A certificate of exportation, customs Form 4467;

(2) A declaration by the foreign shipper in the same form as that prescribed in § 10.66 (a) (2) but stating that such articles were sent from the United States solely for temporary scientific or educational use and describing the specific use to which they were put while abroad.

(3) A declaration of the ultimate consignee in substantially the following form:

District No. ____, Port of _____,
Collector's Office, _____, 19_____.

I, _____, declare that the several articles described in the annexed entry are, to the best of my knowledge and belief, the identical articles exported from the United States on the _____ day of _____, 19____, by _____
(Actual shipper)
address _____, for the account of _____, address _____; that they are returned to _____, address _____, for the account of _____, address _____; that the said articles were exported solely for temporary scientific or educational purposes and for no other use abroad than for exhibition, examination, or experimentation; that they are being returned without having been changed in condition in any manner, except by reason of their bona fide use as follows:

_____
(Describe change in condition)

_____
_____
(Ultimate consignee)

(b) If it is shown to be impracticable to produce the certificate of exportation required by paragraph (a) (1) of this section, the collector may accept other satisfactory evidence of exportation. The collector may take a bond to secure the subsequent production of any of the evidence or documents required by paragraph (a) of this section which are not available at the time of entry.

(c) If, prior to the exportation of articles claimed to be exempt from duty under item 802.10, Tariff Schedules of the United States, an application on customs Form 4455 (accompanied by an appropriate inventory when, in the discretion of the collector or appraiser, such inventory is deemed necessary) was filed and the merchandise was identified, registered, and exported in accordance with the regulations set forth in § 10.8 (d), (f), (g), and (h) governing the exportation of articles sent abroad for repairs, such articles may be returned for the account of the exporter free of duty without formal entry, without regard to the requirements of paragraphs (a) and (b) of this section, upon the filing of the duplicate customs Form 4455 (with accompanying inventory, if one was required), and a declaration of the ultimate consignee in substantially the form set forth in paragraph (a) (3) of this section.

THEATRICAL EFFECTS, MOTION-PICTURE FILMS, AND COMMERCIAL TRAVELERS' SAMPLES

§ 10.68 Procedure.

(a) Theatrical scenery, properties, and effects, motion-picture films (including motion-picture films taken aboard a vessel for exhibition only during an outward voyage and returned for the same purpose during an inward voyage on the same or another vessel), and commercial travelers' samples, of domestic or foreign origin, taken abroad may be returned without formal entry and without payment of duty: *Provided*, That prior to exportation of such articles an application on customs Form 4455 was filed and the merchandise was identified as set forth in § 10.8, governing the exportation of articles sent abroad for repairs. When articles other than those exported by mail or parcel post are examined and registered at one port and exported through another port, they shall be forwarded to the port of exportation under a transportation and exportation entry, as prescribed in § 10.38(d). In the case of commercial travelers' samples taken abroad for temporary use, collectors, in their discretion, may waive examination at the time of exportation. When motion-picture films are to be taken aboard a vessel for exhibition only during an outward voyage and are to be returned for the same purpose during an inward voyage on the same or another vessel, collectors may waive examination and supervision at the time of exportation. In the case of theatrical scenery, properties, and effects taken abroad by rail for temporary use in carload lots in cars sealed by customs officers for entry at Montreal or Toronto, application and examination prior to or at the time of exportation is waived if customs Form 4455 is filed with the United States customs officer in Montreal or Toronto, as the case may be, and that officer examines the articles prior to their release from customs custody by the foreign customs officers.

(b) When any such articles are to be returned to the United States from a contiguous foreign country in which a United States customs officer is stationed, the articles may be presented to such officer with the duplicate copy of the application for examination and comparison with the descriptive list. Upon completion of such examination, the packages containing the articles shall be corded and sealed or forwarded in cars sealed by customs officers and shall be manifested in the same manner as personal baggage. Articles so treated shall be released upon arrival in the United States and removal of the seals by customs officers.

(c) When commercial travelers' samples consisting of raw cotton are taken to and returned from Canada, the application on customs Form 4455 shall be executed in triplicate, two copies thereof to be returned to the traveler for surrender to the customs officer on the return of the samples from Canada.

§ 10.69 Samples to Great Britain and Ireland under reciprocal agreement.

Descriptive lists of samples taken to Great Britain and Ireland by commercial travelers of the United States under the joint declarations of December 3 and 8, 1910 (State Department treaty series 552), shall be required in triplicate, verified by the affidavit of the commercial traveler before a customs officer, and shall show that the samples are for use as models or patterns for the purpose of obtaining orders and not for sale and that the lists contain a full description of the articles. One copy shall be retained and the others shall be delivered to the commercial traveler—one for the identification of the samples on their return to the United States and one for the use of the foreign customs authorities. The latter copy must have been attested by a consular officer of the country concerned in the United States.

ANIMALS AND BIRDS

CROSS REFERENCE: For regulations with respect to recognition of breeds and purebred animals see 9 CFR Part 151.

§ 10.70 Purebred animals for breeding purposes; declaration; certificate.

(a) There shall be filed in connection with the entry of purebred animals for breeding purposes under item 100.01, Tariff Schedules of the United States,[44] a declaration on customs Form 3327 showing that the importer is a citizen of the United States and that the animals are imported specially for breeding purposes.[45]

(b) No claim for free entry shall be allowed in liquidation of the entry until the collector of customs has received from the Department of Agriculture a certificate that the animal is purebred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed. Importers are required by regulation of the Department of Agriculture to make

[43] "Articles, when returned after having been exported for use temporarily abroad solely for any of the following purposes, if imported by or for the account of the person who exported them: Exhibition, examination, or experimentation, for scientific or educational purposes * * *." (Item 802.10, Tariff Schedules of the United States.)

[44] "Animals (except black, silver, or platinum foxes, and any fox which is a mutation, or type developed therefrom), certified to the collector of customs by the Department of Agriculture as being purebred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed, imported by a citizen or agency of the United States specially for breeding purposes, whether intended to be used by the importer himself or for sale for such purposes * * *." (Item 100.01, Tariff Schedules of the United States.)

[45] The fact that such animals may be used incidentally for driving or working purposes will not exclude them from free entry if they are imported primarily for breeding purposes.

tion, or experimentation, for scientific or educational purposes * * *." (Item 802.10, Tariff Schedules of the United States.)

ns set forth in § 10.8, governing the exportation of articles sent abroad for re-

Great Britain and Ireland by commercial

are imported primarily for breeding purposes.

the Department of Agriculture to make application for a certificate of pure breeding to the Animal Inspection and Quarantine Division, Department of Agriculture, on AIQ Form 338 before the animal will be examined as required by 9 CFR 151.7. Application for the certificate must be executed by the owner, agent, or importer and filed at a port of entry designated in the regulations of the Department of Agriculture for the importation of animals (9 CFR 92.3). However, applications for certificates for dogs (other than dogs for handling livestock regulated under 9 CFR 92.18) and cats may be filed either at a designated port of entry or at any other port where customs entry is made. The regulations of the Department of Agriculture prescribing the requirements for the issuance of certificates of pure breeding provide that all animals imported under such regulations must be accompanied to the port at which examination is to be made by certificates of pedigree and transfers of ownership in order that identification may be accomplished, and that, if such animals are moved from such port prior to the presentation of such certificates and transfers, such action shall constitute a waiver of any further claim to certification under such regulations.

(c) In the cases of cats and dogs arriving at Canadian border ports, customs officers and employees are hereby authorized and directed to make the examination required by such regulations of the Department of Agriculture. Customs officers and employees are also authorized and directed to make such examinations at the ports of New York and Boston, provided the dog or cat is brought into the United States by a passenger. At all airports, customs officers shall make the examination of dogs and cats, whether or not accompanied by the owners, if there is no inspector of the Department of Agriculture stationed there or on duty at the time of arrival.

(Sec. 486, 46 Stat. 725, as amended, sec. 101, 76 Stat. 72; 19 U.S.C. 1486; item 100.01, Tariff Schedules of the United States)

§ 10.71 Purebred animals; bond for production of evidence; deposit of estimated duties; stipulation.

(a) When the pedigree certificate and evidence of transfer of ownership have been presented in accordance with the regulations of the Department of Agriculture mentioned in § 10.70(b), the animal may be released from customs custody upon the furnishing by the importer of a bond on customs Form 7551 or 7553 for the production within 6 months of the declaration required by § 10.70(a) (if such declaration cannot be filed at the time of entry) and a certificate of pure breeding. (See § 25.16(c) of this chapter.)

(b) Such bond shall be canceled only upon the production of the required evidence or on payment of duties.

(c) In cases where the pedigree certificate and evidence of transfer of ownership have been presented in accordance with the regulations of the Department of Agriculture, the importer, if he so elects, may, in lieu of giving a bond, deposit estimated duties and file a stipulation with the collector within 10 days after the date of entry to produce the declaration and certificate of pure breeding within 6 months from the date of entry, whereupon the liquidation of the entry shall be suspended. (See § 25.16 (c) of this chapter.)

(d) If the pedigree certificate and evidence of transfer of ownership were not presented in accordance with such regulations of the Department of Agriculture, a deposit of estimated duties, in addition to the regular entry bond, shall be required.

(Sec. 486, 46 Stat. 725, as amended, sec. 101, 76 Stat. 72; 19 U.S.C. 1486; item 100.01, Tariff Schedules of the United States)

§ 10.72 Horses and mules for immediate slaughter.

Horses or mules claimed to be entitled to free entry under item 100.70, Tariff Schedules of the United States,[66] shall be admitted free of duty upon the submission of a declaration in connection with the entry stating that the animals are being imported solely for slaughter, provided the collector is satisfied from an examination of the animals and such other investigation as he deems necessary that no other use is intended.

§ 10.73 Cows for dairy purposes.

Claim for the reduced rate of duty on cows for dairy purposes under item 100.50, Tariff Schedules of the United States," shall be made at the time of entry. There shall be filed in connection with the entry a certificate of the ultimate consignee that the animals were imported in good faith for dairy purposes and that they have actually been delivered to a dairy, farm, or other place suitable for dairy operations, the address of which shall be stated. If the ultimate consignee is not the importer of record, the latter also shall file a certificate executed by himself that the animals are being imported in good faith for dairy purposes.

Tariff Act of 1930, paragraph	Description of products	Rate of duty
701	Cattle weighing less than 200 pounds each or 700 pounds or more each	1½¢ per lb
	Provided, That not more than 200,000 head of cattle weighing less than 200 pounds each entered in the 12-month period beginning Apr. 1 in any year, and not more than 400,000 head of cattle weighing 700 pounds or more each (other than cows imported specially for dairy purposes) entered in any such period, but not more than 120,000 head of such cattle weighing 700 pounds or more each entered in any 3-month period beginning Apr. 1, July 1, Oct. 1, or Jan. 1 within any such 12-month period, shall be dutiable at 1½ cents per pound; and any of the foregoing cattle not subject to that rate of duty shall be dutiable at	2½¢ per lb.
	(Second proviso obsolete.)	

§ 10.74 Animals straying or driven across boundary for pasturage; offspring.

(a) When domestic animals for which free entry is to be claimed under item 100.03, Tariff Schedules of the United States,[68] are driven across the boundary for pasturage purposes, the owner shall file with the collector of customs a descriptive list stating the number of animals, their sex, age, and marks or brands, together with a written statement that the animals therein described are being taken abroad for temporary pasturage purposes only.

(b) Upon the return of such animals within 8 months, entry shall be required and there shall be filed in connection therewith a declaration in the following form:

I, ----------, do solemnly declare that I am a resident of ----------; that the animals now being returned to the United States are ------ of the identical (Number) animals described in the list filed with the collector of customs at the port of ---------- on the -------- day of ----------, 19----; and that -------- of (Number) their offspring accompany said animals.

(c) Animals which have strayed across the boundary line may be returned under the above-mentioned provision of law, together with their offspring, without entry if brought back within 30 days; otherwise entry shall be required: *Provided*, That the owner of any such animal shall report its return to the nearest customs officer and hold it for such inspection and treatment as may be deemed necessary by a representative of the Agricultural Research Service of the Department of Agriculture and any such animal found not to have been so reported or held shall be subject to seizure and forfeiture pursuant to section 545, Title 18, United States Code.

§ 10.75 Wild animals and birds; zoological collections.

When wild animals or birds are claimed to be free of duty under item 852.20, Tariff Schedules of the United States,[69] there shall be filed in connection with the entry a declaration of the ultimate consignee on customs Form 3321, showing that the animals or birds were specially imported pursuant to negotiations conducted prior to importation for the delivery of animals or birds of a named species meeting agreed specifications of reasonable particularity and that

[66] "Horses and mules: Imported for immediate slaughter * * *." (Item 100.70, Tariff Schedules of the United States.)

[67] "Cattle: Weighing 700 pounds or more each: Cows imported specially for dairy purposes * * *." (Item 100.50, Tariff Schedules of the United States.)

[68] "Animals, domesticated, straying across the boundary line into any foreign country, or driven across such boundary line by the owner for temporary pasturage purposes only, together with their offspring: If brought back to the United States within 8 months * * *." (Item 100.03, Tariff Schedules of the United States.)

[69] "Articles imported for use in any scientific public collection for exhibition for scientific or educational purposes: * * * Wild animals (including birds and fish) * * *." (Item 852.20, Tariff Schedules of the United States.)

they are intended at the time of importation for public exhibition in a collection maintained for scientific or educational purposes and not for sale or for use in connection with any enterprise conducted for profit. The fact that an animal or bird may have been sent on approval shall not preclude free entry under said item 852.20 when it is actually accepted as a part of the zoological collection and so exhibited.

§ 10.76 Game animals and birds.

(a) The following classes of live game animals and birds may be admitted free of duty for stocking purposes under the provisions of item 100.05, Tariff Schedules of the United States,[70] without reference to the Bureau of Customs, if the requirements of the Fish and Wildlife Service, Department of the Interior, have been complied with.

ANIMALS

1. Cervidae, commonly known as deer and elk.
2. Leporidae, commonly known as rabbits.
3. Sciuridae, commonly known as squirrels.

BIRDS

1. Anatidae, commonly known as ducks and geese.
2. Gallinae, commonly known as turkeys, grouse, pheasants, partridges, and quail.
3. Otididae, commonly known as bustards.
4. Tinamidae, commonly known as tinamous.

(b) Application for the free entry of other live animals or birds under item 100.05, Tariff Schedules of the United States shall be referred to the Bureau of Customs for consideration. Animals imported for fur-farming purposes shall not be admitted free of duty under that paragraph.

(c) There shall be filed in connection with the entry a declaration by the importer or his agent on customs Form 3313. If the declaration is signed by an officer of the Federal Government or a State government, or by a person who shall present to the collector an order for the shipment given him by the Federal or State government, a statement as to the place of delivery shall not be required.

[70] "Animals, game, imported to be liberated in the United States for stocking purposes * * *" (Item 100.05, Tariff Schedules of the United States.)

(d) Game animals and birds killed in foreign countries by residents of the United States, if not imported for sale or other commercial purposes, may be admitted free of duty without entry, if the person has no merchandise requiring a written declaration upon the filing of a declaration on customs Form 3315. No bond or cash deposit to insure the destruction or exportation of the plumage of such birds shall be required.

§ 10.77 Skins bearing wool or hair as fur skins.

(a) The following types of skins bearing wool or hair of a kind described in schedule 3, part 1C, Tariff Schedules of the United States, may be classified as fur skins under item 123.00 of those schedules,[71] without special supporting evidence:

LAMBSKIN

Astrakhan.	Chinese.
Bagdad.	Indian.
Bessarabian.	Karakul.
Bombay.	Krimmer.
Broadtail.	Moire.
Caracul.	Mosul.
Chekiang.	Multan.
Persian.	Southwest African.
Salzfells.	Tsining.
Shiraz.	

OTHER SKINS

Guanaquito.

(b) If any skins, other than those named in paragraph (a) of this section, bearing wool or hair of a kind described in schedule 3, part 1C, Tariff Schedules of the United States, are claimed to be more specifically provided for as fur skins in item 123.00 of those schedules, the importer shall file in connection with the entry a declaration that the skins are to be used for no other purpose than as fur skins, and free entry shall be dependent upon a report of the appraiser that no substantial part of the wool or hair on the skins can economically be removed otherwise than as an unsought residue and used or disposed of in competition with pulled or clipped wool, and that they are suitable for use, without removing the wool or hair from the skins, in the manufacture or trimming of clothing, driving gloves, or other articles in which the imported skins will be used as furs.

[71] "Skins bearing wool or hair of a kind described in subpart C of part 1 of schedule 3, raw or not dressed, if suitable for use as furs without the removal of the wool or hair from the skins (except removal resulting in an unsought residue of wool or hair incidental to processing of the skins for use as furs) and imported to be so used * * *" (Item 123.00, Tariff Schedules of the United States.)

PRODUCTS OF AMERICAN FISHERIES

§ 10.78 Entry.

(a) Except as prescribed in § 10.79(d), no entry shall be required for fish or other marine products taken on the high seas by vessels of the United States or by residents of the United States in undocumented vessels owned in the United States when such fish or other products are brought into port by the taking vessel, or are transferred at sea to another fishing vessel of the same fleet and brought into port.

(b) An American fishery, within the meaning of schedule 1, part 15A, Tariff Schedules of the United States, is defined as a fishing enterprise conducted under the American flag by vessels of the United States on the high seas or in foreign waters in which such vessels have the right by treaty or otherwise, to take fish or other marine products and may include a shore station operated in conjunction with such vessels by the owner or master thereof.

(c) The employment of citizens of a foreign country by an American fishery is permissible but the purchase by an American fishery of fish or other marine products taken by citizens of a foreign country on the high seas or in foreign waters will subject such fish or other marine products to treatment as foreign merchandise.

(d) Products of an American fishery shall be entitled to free entry although prepared, preserved, or otherwise changed in condition, provided the work is done at sea by the master or crew of the fishery or by persons employed by and under the supervision of the master or owner of the fishery. Fish (except cod, haddock, hake, pollock, cusk, mackerel, and swordfish) the product of an American fishery landed in a foreign country and there not further advanced than beheaded, eviscerated, packed in ice, frozen, and with fins removed, shall be entitled to free entry, whether or not such processing is done by the American fishery. Products of an American fishery prepared or preserved on the treaty coasts of Newfoundland, Magdalen Islands, or Labrador, as such coasts are defined in the Convention of 1818 between the United States and Great Britain, shall be entitled to free entry only if the preparation or preservation is done by an American fishery.[72]

§ 10.79 Proof.

(a) When products of American fisheries claimed to be free of duty under schedule 1, part 15A, Tariff Schedules of the United States, are imported from a foreign country or its territorial waters by the taking vessel, or are shipped, except as provided for in § 10.78(a), to the United States by the master, owner, or agent of the taking vessel otherwise than in the taking vessel, a declaration, customs Form 3295, of the master of the taking vessel, verified by at least two members of the crew, shall be required

[72] "Subpart A headnotes:

"1. An American fishery, for the purposes of this subpart, is a fishing enterprise conducted under the American flag by vessels of the United States on the high seas or in foreign waters in which such vessels have the right, by treaty or otherwise, to take fish or other marine products and may include a shore station operated in conjunction with such vessels by the owner or master thereof.

"2. None of the items in this subpart shall apply to fish, fresh, chilled, or frozen in the form of fillets, steaks, or slices substantially free of bone (including any of the foregoing divided into sections), if produced in a foreign country, or its territorial waters, in whole or in part with the use of the labor of persons who are not residents of the United States.

"Item 180.00—Products of American fisheries (including fish, shellfish, and other animal oils), which have not been landed in a foreign country, or which, if so landed, have been landed solely for transshipment without change in condition. * * *

"Item 180.10—Fish (except cod, cusk, haddock, hake, mackerel, pollock, and swordfish), the product of American fisheries, landed in a foreign country and there processed by removal of heads, viscera, or fins, or by chilling or freezing, or by any combination of these processes, but not otherwise processed. * * *

"Item 180.20—Products of American fisheries, prepared or preserved by an American fishery on the treaty coasts of Labrador, Magdalen Islands, and Newfoundland, as such coasts are defined in the convention of 1818 between the United States and Great Britain * * *." (Schedule 1, part 15A, Tariff Schedules of the United States.)

in connection with the entry. Additional proof may be required if doubt exists.

them from the master, owner, or agent of the taking vessel, the declaration

SALT FOR CURING FISH

proof of use shall be filed at the latter

in connection with the entry. Additional proof may be required if doubt exists. If any of the products have been landed or transshipped in a foreign country, there shall also be filed in connection with the entry an additional statement as to what, if any, change has been made in the condition of the fish or other marine products since their taking and where such change occurred. If the products are fresh or frozen fillets, fresh or frozen fish steaks, or fresh or frozen slices of fish substantially free of bone (including any of the foregoing divided into sections) which have been processed in a foreign country or its territorial waters, a further statement shall be made in connection with the entry as to the residence status of all persons whose labor was used in the processing of such products.

(b) If fish or other marine products are shipped to the United States by one in a foreign country who has purchased them from the master, owner, or agent of the taking vessel, the declaration on customs Form 3295 shall be executed by the master and two members of the crew of the American fishing vessel for the entire quantity discharged at the foreign port and shall be filed in connection with the entry together with a declaration of the purchaser or his agent. Such declaration of the purchaser or agent shall be attached to the invoice and be in the following form:

I, _____, agent of the _____ _____ at the port of _____, do hereby declare that _____ did receive from the following-named American fishing vessels _____ pounds of _____ and _____ pounds of _____ and that _____ pounds thereof in _____ cases went forward in _____ consigned to _____ (Carrier) at _____, and that the above products have not been changed in condition after taking except as shown below:

Vessel and registry	Article	Pounds received	Date received	Pounds shipped	Number of cases	Nature of change in condition, place where so changed, residence of laborers. (See Note.)

Dated _____

_____
(Agent for)

NOTE: Insert in this column the name of country or, if the processing was done on board a vessel outside the territorial waters of any country, the name and registry of the vessel and its location at the time the processing occurred. If fish fillets, steaks, or slices are involved, insert also a statement as to the residence of all laborers engaged in the processing.

(c) If a marine-animal oil otherwise dutiable under schedule 1, part 14C, Tariff Schedules of the United States, entered for consumption or withdrawn from warehouse for consumption is claimed to be free of duty under schedule 1, part 15A, Tariff Schedules of the United States, as a product of American fisheries, there shall be filed in connection with the entry, in addition to the documents required by paragraph (a) of this section a declaration of the master of the American fishery giving the names of the vessels which took and captured the whales, fish, or marine animals from which such oil was produced and stating whether such vessels at the time of taking the whales, fish, or marine animals were documented under the laws of the United States. No vessel shall be considered to be the taking vessel within the meaning of this section unless the whales, fish, or marine animals from which the oil was produced were taken and captured directly by such vessel with the use of no other boats than those carried as its regular equipment.

(d) No marine-animal oil which would be subject to duty if classifiable under a provision in schedule 1, part 14C, Tariff Schedules of the United States, shall be admitted without entry, notwithstanding the provisions of § 10.78(a).

SALT FOR CURING FISH

§ 10.80 Remission of duty; withdrawal; bond.

Pursuant to section 313(e), Tariff Act of 1930,[74] imported salt entered for warehouse may be withdrawn under bond for use in curing fish. Upon proof that the salt has been so used, the duties thereon shall be remitted. In no case shall the quantity of salt withdrawn exceed the reasonable requirements of the case. Withdrawal shall be made on customs Form 7506. Each withdrawal shall contain the statement prescribed for withdrawals in § 8.37(b) of this chapter. When the withdrawal is made by a person other than the importer of record, a bond on customs Form 7561 or other appropriate form for the production of proof of proper use shall be filed. Upon acceptance of the bond, a withdrawal permit shall be issued on customs Form 7506.

(Sec. 313 (e), (1), 46 Stat. 694, as amended; 19 U.S.C. 1313 (e), (1))

§ 10.81 Use in any district.

(a) Salt withdrawn under bond for use in curing fish on the shores of navigable waters may be used for such purpose in any district, but the evidence of use in such cases shall be submitted through the collector of customs for the district where the salt was used.

(b) If desired, salt to be used in curing fish on shore in another district than that in which it is warehoused in bond may be withdrawn under a transportation entry and shipped in bond to a port in the district in which it is to be used, at which port it may be entered on customs Form 7519 with customs Form 7506 attached to show withdrawal of the salt for use in curing fish. Thereupon, and upon the filing of a bond on customs Form 7561 or other appropriate form when necessary, such salt may be used without being sent to a bonded warehouse or public store. In such a case the proof of use shall be filed at the latter port.

(Sec. 313 (e), (1), 46 Stat. 694, as amended; 19 U.S.C. 1313 (e), (1))

§ 10.82 Proof of use.

(a) Proof that the salt withdrawn for use in curing fish has been so used shall be as follows:

(1) The certificate, customs Form 3751, of the person making the withdrawal that the salt has been actually used in curing fish taken by vessels of the United States licensed to engaged in the fisheries or in curing fish on the shores of navigable waters of the United States, giving the names of the vessels, tonnage, names of masters, the approximate quantity of fish cured thereby, and the locality in the district where cured if cured on shore;

(2) The certificate of the master, customs Form 3745, and of at least one other person employed on board any vessel during any voyage on which it is claimed that any part of the salt so withdrawn for curing fish was used that the salt delivered to the vessel by the person making the withdrawal was actually used in curing fish taken by such vessel; and

(3) The certificates, customs Form 3753, of at least two persons actually employed in curing fish on shore (if two or more were so employed) if any part of such salt was so used, stating the quantity of salt used in curing fish on shore and where cured, that it was used in curing fish taken by American fishermen, and the approximate quantity of fish cured.

(b) If the person making the withdrawal is actually employed in curing the fish on shore, the certificate, customs Form 3751, of one other person so employed will be sufficient.

(Sec. 313 (e), (1), 46 Stat. 694, as amended; 19 U.S.C. 1313 (e), (1))

§ 10.83 Bond; cancellation; extension.

(a) The proofs required by § 10.82 shall be presented to the collector holding the bond before the first day of January next after the date of withdrawal, and if it shall appear to his satisfaction that the entire quantity of salt covered by the bond has been duly accounted for, either by having been used in curing fish or by the payment of duty, the collector may cancel the bond, but in his discretion he may first require additional evi-

[74] "Imported salt in bond may be used in curing fish taken by vessels licensed to engage in the fisheries, and in curing fish on the shores of the navigable waters of the United States, whether such fish are taken by licensed or unlicensed vessels, and upon proof that the salt has been used for either of such purposes, the duties on the same shall be remitted." (Tariff Act of 1930, sec. 313 (e); 19 U. S. C. 1313 (e))

dence in corroboration of the proof produced.

(b) On application of the person making the withdrawal, the period of the bond may be extended 1 year so as to allow the salt to be used during the time of extension in curing fish with the same privileges as if used during the original period.

(Sec. 313 (e), (i), 46 Stat. 694, as amended; 19 U.S.C. 1313 (e), (i))

PATNA RICE

§ 10.88 Patna rice to be used in the manufacture of canned soups.

(a) Pursuant to item 131.37, Tariff Schedules of the United States,[79] patna rice cleaned for use in the manufacture of canned soups may be entered, or withdrawn from warehouse, for consumption without the deposit of duty if the person making the entry or withdrawal from warehouse files therewith his declaration that the patna rice was imported to be used in the manufacture of canned soups and the collector is satisfied that the importer of the patna rice had the declared intention at the time of importation. Liquidation of the entry covering the patna rice shall be suspended until proof of use is furnished or the time allowed for the production thereof has expired.

(b) Within 3 years from the date of entry (in the case of warehouse entries as well as consumption entries) the importer shall submit in duplicate a certificate of the superintendent or manager of the manufacturing plant that the patna rice has actually been used in the manufacture of canned soups. A blanket certificate covering all purchases of patna rice from a particular importer during a given period, or all such purchases with specified exceptions, may be accepted for this purpose, provided the importer shall furnish a statement showing in detail, in such manner as to be readily identified with each entry, the patna rice which he sold to such manufacturer during such period. The latter statement shall be based on adequate and carefully kept records of the importer, which shall be open at all times to inspection by employees of the Customs Service and which shall be retained for a period of 3 years from the date of liquidation of the entry.

(c) Upon satisfactory proof of use of the patna rice in the manufacture of canned soups, the entries shall be liquidated free of duty. When such proof is not filed within 3 years from the date of entry or any extension of the period of the bond (see § 25.18(b) of the regulations of this chapter), the entry shall be liquidated dutiable under the appropriate item of the Tariff Schedules of the United States.

MASTER RECORDS, AND METAL MATRICES

§ 10.90 Master records and metal matrices.

(a) An importer desiring to avail himself of the privilege of importing master records, or metal matrices obtained therefrom, under item 724.30, Tariff Schedules of the United States,[81] shall file an application with the Bureau. If the application has not been approved when the merchandise involved is imported, liquidation of the entry covering the importation shall be suspended until advice is received from the Bureau of the action taken in the matter.

(b) The importer (and the manufacturer, if the two are not identical) shall prepare a statement and agreement describing (1) the use to be made of the records or matrices, (2) the means adopted to identify them and the products manufactured with their use, and (3) the accounts kept, and agreeing (i) that the plant and accounts shall be open to the inspection of customs officers at all reasonable times, and (ii) that the importer will notify the collector at the port where the records or matrices were imported and pay promptly an amount equal to the duties ordinarily collectible thereon in the event he uses or intends to use them in the United States otherwise than in the manufacture of sound records for export purposes.

(c) Consumption entries covering importations under item 724.30, Tariff Schedules of the United States, shall be filed at a port in the customs district in which the factory where the articles will be used is located.

(d) There shall be filed in connection with each such entry a declaration of the importer setting forth his name and business address; that he is an exporter of sound records; that the master records or metal matrices are imported for use in the manufacture by or for him of sound records for export purposes; and that sound records produced therefrom will not be used or sold for use in the United States.

(e) The invoice filed with the entry shall contain or be supported by a detailed statement of the cost of production, in the country where made, of each master record or metal matrix covered thereby.

(f) A bond on customs Form 7563 shall be filed in connection with each entry. Such bond shall contain an added condition that the principal shall export all the sound records made with the use of imported master records, or metal matrices obtained from master records, covered by the entry and that the principal shall not sell, expose for sale, or use any of the said articles contrary to law and the regulations issued thereunder; or in default thereof that the obligors shall pay an amount equal to the lawful duties which would have accrued on the merchandise.

(g) If and when the application is approved, entries already filed and future entries shall be liquidated in due course without the assessment of duty, but liability on bonds given with the entries shall be discontinued with respect to any article covered thereby only upon payment of liquidated damages in an amount equal to the duties which would have accrued had the master records or metal matrices been imported for use otherwise than in the manufacture of sound records for export purposes, or upon satisfactory proof that the master records or metal matrices obtained therefrom have been exported or destroyed under customs supervision, and that all sound records made with the use of such articles have been exported.

WOOLS AND HAIR OF THE CAMEL FOR USE IN MANUFACTURING FLOOR COVERINGS AND OTHER ARTICLES

§ 10.91 Importation under item 306.00; entry or withdrawal under bond.

(a) Wool or hair of the camel[83] imported for use in the manufacture of any of the articles enumerated in item 306.00, Tariff Schedules of the United States[83] may be entered on customs Form 7501 and immediately released under bond or may be entered for warehouse on customs Form 7502 and remain in bonded warehouse under the ordinary warehouse bond until appropriately withdrawn or otherwise disposed of in accordance with law. The withdrawal shall contain the statement prescribed for withdrawals in § 8.37(b) of the regulations of this chapter.

(b) When entry is made on customs Form 7501, it shall have endorsed thereon the following notation:

"Above merchandise entered under bond for use in the manufacture of _____ (camel hair belting, felt or knit boots, floor covering, heavy fulled lumbermen's socks, press cloth, or papermakers' felts) under the provision of item 306.00, Tariff Schedules of the United States."

The endorsement shall be signed by the obligor on the bond.

When the merchandise is entered for warehouse, withdrawals for use in the manufacture of the articles enumerated shall be made on customs Form 7506 in the name of the obligor on the bond.

(c) Such wool or hair which has been released from customs custody shall not be restored to a customs status from which it could thereafter be entered or withdrawn under the provisions of item 306.00, Tariff Schedules of the United States.

(Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

---

[79] "Rice: * * * Patna, cleaned, for use in the manufacture of canned soups * * *." (Item 131.37, Tariff Schedules of the United States.)

[81] "Sound recordings on discs of soft wax (master records), or metal matrices obtained therefrom, for use in the manufacture of sound records for export * * *." (Item 724.30, Tariff Schedules of the United States.)

[83] Except with reference to entry or withdrawal, the term "wool or hair" means wool or hair in its imported or any other form, that is, wool or hair which has been entered or withdrawn under the provisions of item 306.00, Tariff Schedules of the United States, and any product or substance composed wholly or in part of, and resulting from any processing of, such wool or hair under bond, but does not include articles made from such wool or hair and enumerated in such item 306.00.

[83] "Wools provided for in items 306.10, 306.11, 306.12, or 306.13, all other wools of whatever blood or origin not finer than 46s and hair of the camel provided for in item 306.40, 306.41, 306.42, or 306.43, entered by a dealer, manufacturer, or processor for use only in the manufacture of camel hair belting, felt or knit boots, floor coverings, heavy fulled lumbermen's socks, press cloth, or papermakers' felts * * *." (Item 306.00, Tariff Schedules of the United States.)

§ 10.92 Bond; form; penalty.

(a) Notwithstanding the provisions of § 10.91, wool or hair of the camel imported for use in the manufacture of any of the articles enumerated in item 306.00, Tariff Schedules of the United States, may be withdrawn for consumption under bond on customs Form 7563 in the amount of the duties which would have been assessed on the wool or hair if withdrawn for consumption without the deposit of duty, plus 10 percent of the value of the wool or hair, but not less than $100 nor more than $10,000.

(b) The bond shall contain the following conditions:

(1) In the case of entry or withdrawal,

§ 10.92 Bond; form; penalty.

(a) At the time of making entry for consumption or withdrawal from warehouse of the wool or hair there shall be filed a single entry bond on customs Form 7547, unless the transaction is charged against a term bond on customs Form 7549 or other appropriate form. The penalty of the single entry bond shall be in the amount equal to the value of the wool or hair, as set forth in the entry, plus double the estimated duties, as determined at the time of entry. The penalty of the term bond shall be $10,000, or such larger amount as the collector of customs deems necessary to the protection of the revenue.[84]

(b) A single entry or term bond shall be filed by each manufacturer, processor, or dealer entering or withdrawing the wool or hair under bond or receiving it by transfer under bond in its imported or other form.

(c) Only one term bond shall be required from each manufacturer, processor, or dealer. If wool or hair is entered or withdrawn at any port other than that at which the original term bond is filed, a certified copy of such bond shall be filed at such other port.

(d) The collector of customs may cancel liquidated damages not in excess of $20,000 incurred under a bond mentioned in this section upon payment of less than the full amount, or without the payment of any amount if no loss of revenue is involved, as he may deem appropriate under the law and in view of the circumstances.

(Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

§ 10.93 Records of receipt of wool or hair.

(a) Each manufacturer, processor, or dealer who enters or withdraws wool or hair under bond, or who receives wool or hair by transfer under bond, shall keep records which will show:

(1) In the case of entry or withdrawal, the quantity, entered clean content, identity, and description of the wool or hair entered or withdrawn under bond; and

(2) In the case of receipt by transfer, the quantity, description, and date of transfer certificate (see § 10.95 (d)) of the wool or hair received by transfer under bond, and the name and address of the transferor from whom received.

(b) Every lot of wool or hair entered or withdrawn under bond, or received by transfer under bond, shall be marked or stored until put into process in such manner as to insure the identification of the lot with the entry, withdrawal, or transfer certificate.

(Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

§ 10.94 Manufacturing records.

(a) Each manufacturer or processor shall keep the records specified in this section with respect to products and substances resulting wholly or in part from bonded wool or hair. Such records shall be kept by 3-month periods of manufacture on a calendar-year basis and shall show:

(1) The inclusive dates of each period of manufacture;

(2) The quantity, identity, and description of the wool or hair not previously processed by the reporting manufacturer or processor put into process during the period;

(3) The quantity and description of all intermediate products, stocks in process, and wastes (including noils) not described in the preceding subdivision which are put into process during the period; [85]

(4) The quantity and description of the final products resulting from the processing by the manufacturer or processor; the quantity by weight of the wool or hair contained therein; and

(5) The quantity of any wastes (including noils) incurred which remain on hand upon completion of the period of manufacture. Such wastes shall be accounted for under the following designations:

Noils—
Soft (including all wastes, except noils, burr wastes, card strippings, and sweepings, produced after the scouring of the wool or hair and before the spinning operation).
Hard (including all wastes, except sweepings, produced in and after the spinning operation but before completion of the weaving operation or, in the case of the manufacture of articles enumerated in item 306.00, Tariff Schedules of the United States, which are not woven, before the completion of the enumerated article).
Fly (including all wastes other than noils and hard and soft wastes as above specified).

White soft wastes and white threads shall be accounted for separately.

(6) The records of each manufacturer or processor shall contain a detailed inventory of all wool and hair on hand at the close of each abstract period.

(b) When the manufacturer of any enumerated articles spins the yarns used in the manufacture thereof, he shall also keep records showing the quantity and description of all the yarns so spun.

(c) Within 30 days from the end of each calendar quarter the manufacturer or processor, liable under a bond for wool or hair, shall submit to the collector of customs where his original bond has been filed an abstract of his records on customs Form 7531–B. The abstract shall be supported by copies of the processor's returns (showing the processing losses and net returns) for any bonded wool or hair processed outside the plant of the manufacturer or processor submitting such abstract. When a bonded manufacturer or processor has not manufactured or processed any bonded wool or hair during the 3-months period he shall promptly so advise the collector of customs.

(d) Each such abstract shall bear the following certificate of an authorized officer or member of the firm:

I, _____, certify that this document is a true and correct abstract of our records of manufacture; that such records have been kept in the manner prescribed by § 10.94, Customs Regulations.

All wastes reported herein as resulting from operations in our plant resulted in the usual course of manufacture of articles enumerated in item 306.00, Tariff Schedules of the United States, except as follows:

_____

_____

All wool or hair delivered from our plant during the period covered by this abstract, under a transfer certificate or otherwise, has been listed herein.

Dated _____

_____

_____

(Title)

(e) In the case of preliminary processors, such as pullers, sorters, washers, scourers, or carbonizers, a transfer certificate, on customs Form 7531–A, revised, covering wool or hair processed and transferred by any one of them, shall be submitted to the collector of customs as an abstract of his records of manufacture, when such processor has received custody (not ownership) of the wool or hair from a transferor who has been relieved by the collector of liability under bond for the use of the wool or hair in accordance with § 10.95(d).

(Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

§ 10.95 Records and reports of enumerated articles of wool or hair delivered; transfer certificates.

(a) Each manufacturer, processor, or dealer shall keep records showing the quantity, description, and wool or hair content of all wool or hair (including samples) and enumerated articles delivered from his premises pursuant to transfer under bond, purchase, consignment, or otherwise. Such records shall also show the date of delivery from the premises and the name and address of the transferee, purchaser, consignee, or other person to whom delivery is made. The records shall show also the exact designation under which any wool or hair was transferred, sold, consigned, or otherwise delivered and the price paid or agreed to be paid, or if there has been no sale or contract of sale, the price that the manufacturer, processor, or dealer would have received or was willing to receive for the wool or hair if sold in the ordinary course of trade. The total amounts of the deliveries within the purview of this paragraph, except of enumerated articles, shall be included in the totals shown on the abstract prescribed in § 10.94(c).

(b) Within 30 days after the delivery of wool or hair from the premises, otherwise than under a transfer certificate provided for in paragraph (d) of this section, the manufacturer, processor, or dealer making such delivery shall file a declaration with the collector of customs in whose district his original bond

---

[84] "* * * a dealer, manufacturer, or processor may be relieved of liability under his bond with respect to any wool or hair entered under item 306.00 which is transferred in its imported or any other form to another dealer, manufacturer, or processor who has filed a bond to insure that the merchandise so transferred shall be used only in the manufacture of the articles enumerated in item 306.00; * * *." (Schedule 3, part 1C, headnote 4(c).)

[85] This applies only to materials carried over from a previous period and does not require the keeping of records of materials which are put back into process in the same period in which they resulted.

is filed, showing the quantity and description of merchandise delivered, the date of delivery, and the name and address of the person to whom delivered. The declaration shall show the particulars as to price specified in paragraph (a) of this section, whether representative samples have been retained, whether the merchandise resulted in the usual course of manufacture of enumerated articles, and whether such merchandise could have been used (with or without further preparation) in the manufacture of enumerated articles.

(c) The manufacturer, processor, or dealer shall retain for customs inspection a representative sample of not less than one pound of each kind of merchandise for which a report is required by §10.96 (a) or (b). Such sample shall be properly identified in his records with the report covering such merchandise and shall be available for inspection by proper officers of the Government at all reasonable times for a period of 3 months after its delivery.

(d) When the ownership of wool or hair is transferred by one bonded manufacturer, processor, or dealer to another manufacturer, processor, or dealer the transfer shall be covered by a transfer certificate on customs Form 7531-A, revised. When a transferor transfers custody (not ownership) of wool or hair, no transfer certificate is required unless the transferor in writing specifically requests the collector of customs to be relieved of his liability under his bond.[86a] When the transfer is made by a dealer, customs Form 7531-A shall be supported by copies of processors' invoices or reports (showing processing losses and net returns) for any wool or hair processed outside the custody of the dealer. Such transfer certificates shall be filed by the dealer within 30 days after the date of the transfer. When the transfer is made by a manufacturer or processor, it shall be filed within the quarterly period allowed for the filing of the abstract on which the transfer is required to be reported. When the original bonds of both the transferor and the transferee are on file in the office of one collector of customs, the transfer certificate shall be filed with that officer in duplicate. When the original bond of the transferee is on file in another customs district, the transfer certificate shall be filed in triplicate. The transferor shall not be relieved from liability under his bond until the transferred wool or hair has been charged against the bond of the transferee.

(e) The establishments of bonded manufacturers, processors, and dealers, and the originals of all books and records kept by such manufacturers, processors, and dealers relating to bonded wool or hair shall be available at all reasonable times for inspection by proper officers of the Government.

(f) All records required to be kept by manufacturers, processors, and dealers relating to bonded wool or hair shall be retained for a period of 3 years after the imported wool or hair has been used in the manufacture of the articles enumerated in item 306.00, Tariff Schedules of the United States. Where the wool or hair has been charged against the bond of a transferee, the records of the transferor shall be retained for a period of 3 years from the date of transfer.

(Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

§ 10.96 Reports of use or transfer for use in violation of bond.

(a) When a bonded manufacturer or processor uses any bonded wool or hair otherwise than in the manufacture of the articles enumerated in item 306.00, Tariff Schedules of the United States, or in preparation for such manufacture, he shall, within 30 days after such use, make a report thereof to the collector of customs in whose district his original bond is filed, showing the quantity and description of the wool or hair so used, the use to which it has been put, the date of such use, whether such wool or hair resulted in the usual course of manufacture of the enumerated articles, and whether it could have been used in the usual course of manufacture of such articles.[87]

(b) A manufacturer, processor, or dealer shall likewise report to such collector of customs within 30 days any transfer of bonded wool or hair for use otherwise than in the manufacture of the enumerated articles. The report shall show the quantity and description of the wool or hair, the date of transfer, the name and address of the transferee, and, if known, the specific use to which the wool or hair is to be put. Such a report of a manufacturer or processor shall state whether the wool or hair resulted in the usual course of manufacture of the enumerated articles and whether it could have been used in the manufacture of such articles.

(c) Whether merchandise has resulted in the usual course of manufacture shall be determined with respect to the bona fide and normal operations of the plant at which the merchandise resulted. Merchandise resulting in the usual course of manufacture which cannot be used (with or without further preparation) in the usual course of the manufacture of enumerated articles shall be the quantity of the merchandise resulting in the usual course of manufacture in excess of the quantity thereof which is used in the bona fide and normal operations at the plant at which it resulted. In determining, for the abovementioned purposes, whether operations are bona fide and normal, consideration may be given to the conditions at the plant and in the industry as a whole.

(Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

§ 10.97 Duties, exportation or destruction.

(a) All wool or hair in its imported form used or transferred for use otherwise than in the manufacture of the enumerated articles shall be assessed with duty in accordance with items 306.01, 306.02, 306.03, and 306.04, Tariff Schedules of the United States.[88] As to merchandise resulting from the use of the imported wool or hair in the usual course of manufacture of the enumerated articles and which is used or transferred for use otherwise than in the manufacture of the enumerated articles, no duty shall be assessed unless such merchandise can be used (with or without further preparation) in ordinary commercial practice in the usual course of manufacture of such enumerated articles, except in the case of white soft wastes, white thread, and noils which shall be dutiable at seven-eighths of the regular duties when they are used or transferred for use otherwise than in the manufacture of the enumerated articles, irrespective of whether they can be used (with or without further preparation) in the manufacture of such enumerated articles. Wastes and other merchandise which have not resulted in the usual course of manufacture of the enumerated articles are dutiable when used or transferred for use otherwise than in the manufacture of the enumerated articles, irrespective of whether they could have been used with or without further preparation.

(b) Wool or hair, except wool or hair in its imported form, shall be credited against the covering bond if exported or destroyed under customs supervision.

(Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

[86a] Normally, when wool or hair is transferred, for scouring, blending, etc., the liability therefor under bond will remain with the actual owner until a change of ownership is effected.

[87] "* * * every dealer, manufacturer, or processor who has given a bond pursuant to the provisions of item 306.00 shall report any transfer or use of merchandise contrary to the terms of his bond, within 30 days after such transfer or use, to the collector of customs in whose district the bond is filed, and for failure to so report such dealer, manufacturer, or processor shall be liable to a penalty (in addition to the duties provided for) equal to the value of the merchandise so transferred or used at the time and place of such transfer or use; * * *." (Schedule 3, part 1C, headnote 5(c), Tariff Schedules of the United States.)

[88] "Any of the wool or hair entered as provided for in item 306.00, if used, or transferred for use, in its imported or any other form in any manner otherwise than in the manufacture of the articles enumerated in the said item:

"Item 306.01 White soft wastes and white threads resulting during the usual course of manufacture of such enumerated articles * * * 87.5 percent of the regular duties applicable to wool or hair in like condition.

"Item 306.02 Noils resulting during the usual course of manufacture of such enumerated articles * * * 87.5 percent of the regular duties applicable to noils.

"Item 306.03 Other merchandise resulting during the usual course of manufacture of such enumerated articles which cannot be used (with or without further preparation) in the usual course of manufacture of such enumerated articles * * * Free.

"Item 306.04 Wool or hair other than a waste or byproduct described in any of the three foregoing items * * * The regular duties applicable to wool or hair in the condition in which so used or transferred." (Items 306.01, 306.02, 306.03, and 306.04, Tariff Schedules of the United States.)

FLUXING MATERIAL

§ 10.98 Copper-bearing fluxing material.

(a) For the purpose of this section, ores usable as a flux or sulphur reagent, mentioned in the provision for such ores in item 602.25, Tariff Schedules of the United States,[89] shall include only ores which contain by weight not over 15 percent copper.

(b) [Reserved]

(c) There shall be filed in connection with the entry of such copper-bearing ores, either for consumption or warehouse, a declaration of the importer that the material is to be used for fluxing purposes only. In the case of a consumption entry, the estimated tax shall be deposited at the time of entry. Liquidation of entries shall be suspended pending proof of use for fluxing purposes as hereinafter provided.

(d) Samples of the material shall be taken in accordance with the commercial method in effect at the plant if to be used in a bonded smelting warehouse, or in accordance with § 8.48 of this chapter if entered for consumption, and the copper content thereof shall be determined by the Government chemist in accordance with the assay.

(e) The management of the smelting or converting plant shall file with the deputy collector at Perth Amboy, N. J., a statement based on its records of operation for each quarterly period showing for each furnace or converter the total quantity of material charged during each month or part thereof of each quarter, the total quantity of material used for fluxing purposes, and the quantity of imported ores used for fluxing purposes for which free entry was claimed under the above-mentioned provision, together with the copper content of such imported ores computed in accordance with the Government asasy. If the quantity of ores used for fluxing purposes in any furnace or converter during any month or part thereof of any quarter is in excess of 25 percent of the charge of such furnace or converter, the quarterly statement shall be accompanied by an explanation of the necessity for using such quantity for fluxing purposes.

[89] "For an aggregate amount not to exceed 15,000 tons of copper content in ores which contain by weight not over 15 percent copper and which are entered in any calendar year for use as a flux or sulphur reagent in copper smelting or converting * * * Free of duty on copper content." (Item 602.25, Tariff Schedules of the United States.)

ETHYL ALCOHOL

§ 10.99 Importation of ethyl alcohol for nonbeverage purposes.[90]

(a) If claim is made by an importer other than the United States or a governmental agency thereof for the classification of ethyl alcohol of 185 degrees or more of proof under item 427.88, Tariff Schedules of the United States,[91] there shall be filed in connection with the entry a declaration of the importer that the alcohol is to be used for nonbeverage purposes only.

(1) Such alcohol shall be released by customs upon deposit of estimated duty, if any, and without payment of the internal revenue tax only when there has been received an application on Internal Revenue Form 2609 by the proprietor of the distilled spirits plant approved by the appropriate internal revenue officer covering the transfer under internal revenue bond of the alcohol to the bonded premises of the proprietor's plant for nonbeverage use.

[90] "*Imported distilled spirits.* Imported distilled spirits of 185 degrees or more of proof (or spirits of any proof imported for any purpose incident to the requirements of the national defense) may, under such regulations as the Secretary or his delegate shall prescribe, be withdrawn from customs custody, and transferred to the bonded premises of a distilled spirits plant, for nonbeverage use, without payment of the internal revenue tax imposed on imported distilled spirits by section 5001. Such spirits may be redistilled or denatured and may, without redistillation or denaturation, be withdrawn for any purpose authorized by this chapter, in the same manner as domestic distilled spirits." (Sec. 5232, Internal Revenue Code of 1954; 26 U.S.C. 5232)

"*Withdrawal of distilled spirits from Customs custody free of tax for use of the United States.* Distilled spirits may be withdrawn free of tax from customs custody by the United States or any governmental agency thereof for its own use for nonbeverage purposes, under such regulations as may be prescribed by the Secretary or his delegate." (Sec. 5313, Internal Revenue Code of 1954; 26 U.S.C. 5313)

[91] "Alcohols, monohydric, unsubstituted: * * * Ethyl for nonbeverage purposes" (Item 427.88, Tariff Schedules of the United States.)

(2) Prior to release of such alcohol from customs custody, Internal Revenue Form 236 shall be prepared by the customs officer in the manner and number of copies prescribed in 26 CFR 251.173. When shipments are in tank cars or trucks, the details of the gauge of each tank car or truck shall be reported separately. In the case of barrels, drums, or similar portable containers, the details of the gauge shall be shown on Internal Revenue Form 2630, in triplicate. The customs officer shall also note on Form 236 the rate of customs duty paid and the rate of customs duty which would have been applicable had such alcohol been imported for beverage purposes.[92] Upon compliance with customs entry requirements and completion of the appropriate Internal Revenue forms, the customs officer shall release the alcohol for transfer to the distilled spirits plant. The customs officer shall distribute and retain copies of the Internal Revenue forms as prescribed in 26 CFR 251.173.

(3) Before a shipment in a tank car or tank truck is released, all openings affording access to the alcohol shall be sealed by a customs officer with customs seals in such manner as will prevent unauthorized removal of the alcohol.

(4) When the distilled spirits plant is equipped with suitable dock facilities, the alcohol may, subject to all requirements of the customs laws and regulations, be transferred by pipeline from the importing vessel or barge through weighing tanks or other suitable measuring tanks into locked empty storage tanks on the bonded premises of the distilled spirits plant, or directly into locked storage tanks on such premises provided such storage tanks are equipped with suitable measuring devices for correctly indicating the actual contents and the outlets thereof are locked. In all such cases of pipeline transfers, the alcohol shall be transferred under customs supervision, gauged immediately by a customs officer, and thereupon released for deposit in the distilled spirits plant. The details of the gauge shall be reported for internal revenue on Form 236 and distribution of such form shall be made as prescribed in subparagraph (2) of this paragraph.

[92] "Ethyl alcohol for beverage purposes * * *." (Item 168.30, Tariff Schedules of the United States.)

(b) If ethyl alcohol is to be withdrawn from customs custody by the United States or any governmental agency thereof for its own use for nonbeverage purposes, before release under the entry without the deposit of estimated duties, if any, and internal revenue tax, or before release in accordance with the provisions of § 8.28(c) of this chapter, there shall be filed with the collector of customs an appropriate permit on Internal Revenue Form 1444 which may also cover future withdrawals at that port pursuant to appropriate entry in each case. The alcohol shall be gauged by a customs officer, who shall prepare a report of gauge on Internal Revenue Form 2629, in triplicate, and may then be released for shipment to the United States or governmental agency thereof named in the permit, Form 1444. The customs officer shall make the appropriate notation on Form 1444 as to the withdrawal, shall state on each copy of Form 2629 the permit number of the Form 1444 involved, shall retain the original of the Form 2629 with the permit on Form 1444, and shall forward one copy of Form 2629 to the governmental agency involved and one copy to the director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C., 20224.

(c) The foregoing provisions are not applicable with respect to withdrawal free of tax on the entry of such articles from the Virgin Islands. Provisions for the release free of tax of distilled spirits, denatured distilled spirits, and products containing denatured spirits produced and withdrawn in the Virgin Islands are found in Subpart O of Part 250, Internal Revenue Regulations (26 CFR Part 250, Subpart O).

(d) Upon the completion of the applicable procedure outlined above, the entry shall be liquidated with the assessment of duty at the appropriate rate, if any, and without the assessment of internal revenue tax.

RAPESEED OIL

§ 10.100 Rapeseed oil to be used in the manufacture of rubber substitutes or lubricating oil.

(a) Rapeseed oil imported to be used in the manufacture of rubber substitutes or lubricating oil may, if it has been rendered unfit for use as food, be entered, or withdrawn from warehouse, for con-

sumption without deposit of duty under item 176.44, Tariff Schedules of the United States,[92a] or may, if it has not been rendered unfit for use as food, be entered, or withdrawn from warehouse, for consumption upon payment of duty at the lower rate provided for in item 176.46, Tariff Schedules of the United States,[92b] if the person making the entry or withdrawal from warehouse files therewith his declaration that the rapeseed oil was imported to be used in the manufacture of rubber substitutes or lubricating oil and the collector is satisfied that the importer of the rapeseed oil had the declared intention at the time of importation. Liquidation of the entry covering the rapeseed oil shall be suspended until proof of use is furnished or the time allowed for the production thereof has expired.

(b) Within 3 years from the date of entry (in the case of warehouse entries as well as consumption entries) the importer shall submit in duplicate a certificate of the superintendent or manager of the manufacturing plant including a description of the processing in sufficient detail to show that the rapeseed oil has actually been used in the manufacture of rubber substitutes or lubricating oil. A blanket certificate covering all purchases of rapeseed oil from a particular importer during a given period, or all such purchases with specified exceptions, may be accepted for this purpose, provided the importer shall furnish a statement showing in detail, in such manner as to be readily identified with each entry, the rapeseed oil which he sold to such manufacturer during such period. The latter statement shall be based on adequate and carefully kept records of the importer, which shall be open at all times to inspection by employees of the Customs Service and which shall be retained for a period of 3 years from the date of liquidation of the entry.

(c) Upon satisfactory proof of use of the rapeseed oil, the entries shall be liquidated under items 176.44 or 176.46, Tariff Schedules of the United States, as appropriate. When such proof of use is not filed within 3 years from the date of the entry or any extension of the period of the bond (see § 25.18(b) of the regulations of this chapter), the entry shall be liquidated under item 176.45 or 176.47, Tariff Schedules of the United States, as appropriate.

[92a] "Rapeseed oil: Rendered unfit for use as food: Imported to be used in the manufacture of rubber substitutes or lubricating oil * * *." (Item 176.44 Tariff Schedules of the United States.)

[92b] "Rapeseed oil: Other: Imported to be used in the manufacture of rubber substitutes or lubricating oil * * *." (Item 176.46, Tariff Schedules of the United States.)

LIMESTONE

§ 10.101 Limestone to be used in the manufacture of fertilizer.

(a) Pursuant to item 480.05, Tariff Schedules of the United States,[93] crude, crushed, or broken limestone when imported to be used in the manufacture of fertilizer may be entered, or withdrawn from warehouse, for consumption without payment of duty if the person making the entry or withdrawal from warehouse files therewith his declaration that the limestone was imported to be used in the manufacture of fertilizer and the collector is satisfied that the importer of the limestone had the declared intention at the time of importation. Liquidation of the entry covering the limestone shall be suspended until proof of use is furnished or the time allowed for the production thereof has expired.

(b) Within 3 years from the date of entry (in the case of warehouse entries as well as consumption entries) the importer shall submit in duplicate a certificate of the superintendent or manager of the manufacturing plant that the limestone has actually been used in the manufacture of fertilizer. A blanket certificate covering all purchases of limestone from a particular importer during a given period, or all such purchases with specified exceptions, may be accepted for this purpose, provided the importer shall furnish a statement showing in detail, in such manner as to be readily identified with each entry, the limestone which he sold to such manufacturer during such period. The latter statement shall be based on adequate and carefully kept records of the importer, which shall be open at all times to inspection by employees of the Customs Service and which shall be retained for a period of 3 years from the date of liquidation of the entry.

(c) Upon satisfactory proof of use of the limestone in the manufacture of fertilizer, the entries shall be liquidated free of duty. When such proof is not filed within 3 years from the date of entry or any extension of the period of the bond (see § 25.18(b) of the regulations of this chapter), the entry shall be liquidated dutiable under the appropriate item of the Tariff Schedules of the United States.

[93] "Limestone, crude, broken, or crushed, when imported to be used in the manufacture of fertilizer * * *." (Item 480.05, Tariff Schedules of the United States.)

UNITED STATES GOVERNMENT IMPORTATIONS

§ 10.103 Entry, examination, and tariff status.

Except as otherwise provided for in §§ 8.8(d), 8.15(c)(12), 8.28(c) of this chapter, 10.104, 10.105, or elsewhere in these regulations, importations made by or for the account of any agency or office of the United States Government are subject to the usual customs entry and examination requirements, and, in the absence of express exemptions from duty, such as are contained in item 830.00,[95] item 831.00,[95] item 832.00,[96] item 833.00,[97] item 834.00,[98] or other items in the Tariff Schedules of the United States providing for free entry, such importations are also subject to duty.

§ 10.104 Importations by a military department, the General Services Administration, and the Atomic Energy Commission.

(a) Shipments consigned to a military department, the General Services Administration, the Atomic Energy Commission, or other party acting for the Atomic Energy Commission, or to an officer or official of any such agency in his official capacity, shall be regarded for purposes of this regulation as shipments the immediate delivery of which is necessary within the purview of section 448(b), Tariff Act of 1930. Such shipments may be released upon the filing of immediate delivery applications on customs Form 3461 as set forth in § 8.59 of this chapter. Such applications may be limited to particular shipments or may cover all shipments imported by the government agency making the application. They may be approved for specific periods of time or for indefinite periods of time provided in either case they are supported by blanket carrier's certificates and stipulations as provided in paragraph (b) of this section.

(b) Before the release of a shipment under an immediate delivery permit, evidence of the right of the applicant to make entry for the articles shall be furnished the collector in accordance with the provisions of § 8.6 of this chapter. A blanket carrier's certificate and release order on customs Form 7529 may be accepted by a collector for all shipments for the same consignee which may be brought to a port by a carrier during any period stated on the form. No bond shall be required in support of an immediate delivery application provided for in this section if a stipulation in substantially the form set forth in § 8.28 (c) of this chapter is filed with the collector of customs in connection with the application. No invoice or other declaration of the shipper shall be required for shipments for which free entry is allowed in accordance with this section.

(c) (1) Collectors may admit articles free of duty under item 832.00, Tariff Schedules of the United States, only upon receipt of a certificate executed by a duly authorized officer or civilian official of the appropriate department in the following form:

I certify that the procurement of this material constituted an emergency purchase of war material abroad by the Department of the (name of the military department), and it is accordingly requested that such material be admitted free of duty pursuant to

[95] See § 10.46.

[96] "Articles for military departments: Materials certified to the Commissioner of Customs by the authorized procuring agencies to be emergency war material purchased abroad * * *." (Item 832.00, Tariff Schedules of the United States.)

[97] "Articles for the General Services Administration: Materials certified by it to the Commissioner of Customs to be strategic and critical materials procured under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h) * * *." (Item 833.00, Tariff Schedules of the United States.)

[98] "Articles for the Atomic Energy Commission: Materials certified by it to the Commissioner of Customs to be source materials the entry of which is necessary in the interest of the common defense and security * * *." (Item 834.00, Tariff Schedules of the United States.)

item 832.00, Tariff Schedules of the United States.

(Name)

(Title), who has been designated to execute free-entry certificates for the above-named department.

(Grade) (Organization)

(2) Collectors may admit articles free under item 833.00, Tariff Schedules of the United States, only upon the receipt of a certificate executed by a duly designated official of the General Services Administration in the following form:

Pursuant to item 833.00, Tariff Schedules of the United States, I hereby certify that the above-described materials are strategic and critical materials procured under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b).

(Name)

(Title), General Services Administration, who has been duly authorized to execute the above certificate.

(3) Collectors may admit materials free under item 834.00, Tariff Schedules of the United States, only upon receipt from the Atomic Energy Commission of a certificate specifically identifying the shipment of such materials and executed in the following form by a duly authorized official of the Atomic Energy Commission.

I certify to the Secretary of the Treasury that the above-described materials are source materials purchased abroad, the admittance of which is necessary in the interest of the common defense and security, in accordance with item 834.00, Tariff Schedules of the United States.

(Name)

(Title, who has been authorized to execute free-entry certificates for the Atomic Energy Commission)

(4) The above certificates may be printed, stamped, or typewritten on the customs entry or withdrawal, customs Form 7501 or 7506, or on a separate paper attached to the entry or withdrawal provided the certification is clearly and unmistakably identified with the material covered by the entry or withdrawal.

(d) Shipments for which free entry has been or will be claimed under one of the statutes mentioned in paragraph (c) of this section shall be released after only such examination as is necessary to identify them.

(e) All materials for which free entry is claimed under one of the statutes mentioned in paragraph (c) of this section shall be entered, or withdrawn from warehouse, for consumption in the name of the Government department whose representative executes the certificate set forth in the said paragraph (c) of this section, unless exemption from this requirement is specifically authorized by the Bureau.

(f) If proper entries for consumption for importations released under this regulation are not filed within a reasonable time, appropriate steps shall be taken to insure the prompt filing of such entries.

(Sec. 448(b), 46 Stat. 714, Sec. 101, 76 Stat. 72; 19 U.S.C. 1484(b); items 832.00, 833.00, 834.00, Tariff Schedules of the United States)

§ 10.105 American goods returned.

(a) Articles entered, or withdrawn from warehouse, for consumption in the name of an agency or office of the United States Government may be admitted free of duty under item 800.00, Tariff Schedules of the United States, upon the filing of a certificate in the following form in lieu of the documents provided for in § 10.1 (a):

I certify that the articles covered by this entry for which free entry is claimed under item 800.00, Tariff Schedules of the United States, are the growth, produce, or manufacture of the United States, and have been returned to the United States without having been advanced in value or improved in condition by any process of manufacture or other means, and that no drawback has been or will be claimed on such articles.

(Name)

(Title) (Service)

(b) When articles claimed to be free under item 800.00 and others claimed to be free under any of the statutes mentioned in § 10.104 (c) are intermingled in a single shipment in a manner which precludes separation for the purpose of making claims for free entry under the separate categories, all the articles may be covered by a combined certificate which follows the requirements of § 10.104 (c) and paragraph (a) of this section.

WHEAT

§ 10.106 Wheat, unfit for human consumption; other wheat.

There shall be filed in connection with each entry covering wheat entered under item 130.65, Tariff Schedules of the United States, as "wheat, not fit for human consumption" a declaration of the importer setting out whether any part of the importation is to be used with or without blending with other wheat in the manufacture of products for human consumption. If it is declared that no part of the shipment is to be so used, a further declaration shall be made stating the use to which the wheat is to be put. When it is shown by the declaration that the wheat is to be used in the manufacture of products for human consumption, it shall be classified as "wheat, other", under the provisions of item 130.70, Tariff Schedules of the United States. However, when the declaration states that the wheat is to be used otherwise than in the manufacture of products for human consumption, the procedure outlined in T.D. 47577 shall be followed, and in the absence of other controlling factors, the wheat shall be classified as "wheat, not fit for human consumption" under the provisions of item 130.65, Tariff Schedules of the United States, if it contains 30 percentum or more of damaged kernels.

NOTE: Treasury Decision 53309, 18 F. R. 4705, Aug. 8, 1953, provides as follows:

The declaration required by § 10.106 may be made by the actual importer or by a nominal consignee having actual knowledge of the facts.

The use of wheat in the manufacture of a product for human consumption within the meaning of § 10.106 includes use in the manufacture of ethyl alcohol, monosodium glutamate, edible flour, or edible starch.

RESCUE AND RELIEF WORK

§ 10.107 Equipment and supplies; admission.

(a) There shall be admitted without entry and without the payment of duty or any tax imposed upon or by reason of importation of any article described in section 322(b), Tariff Act of 1930, as amended,[39] subject to compliance with the following conditions:

(1) Before importation or as soon thereafter as possible, and in every case before the expiration of 10 days after importation, a report shall be made to the nearest customs officer by the person in charge of sending the article from the foreign country, or by the person for whose account it was brought into the United States, stating the character, quantity, destination, and use to be made of the article.

(2) If practicable, the article shall be exported under customs supervision. In any other case a report shall be made by the person in charge of the exportation as soon as possible after exportation to the customs officer to whom the arrival was reported, stating the character, quantity, and circumstances of the exportation.

(b) In the case of each article admitted under paragraph (a) of this section, the collector of customs shall satisfy himself as to whether the article was exported within a reasonable time, or that it has been properly expended or destroyed. If an article is so far destroyed in connection with a use contemplated for it by section 322 (b) that it has only a salvage value, it shall not be required to be exported.

(c) Any article admitted under paragraph (a) of this section which is used in the United States otherwise than for a purpose contemplated for it by section 322 (b), or which is not exported within 90 days after its arrival in the United States, or within such longer time as may be specially authorized by the col-

---

[39] "(b) The Secretary of the Treasury may provide by regulation or instruction for the admission, without entry and without the payment of any duty or tax imposed upon or by reason of importation, of

"(1) Aircraft, equipment, supplies, and spare parts for use in searches, rescues, investigations, repairs, and salvage in connection with accidental damage to aircraft;

"(2) Fire-fighting and rescue and relief equipment and supplies for emergent temporary use in connection with conflagrations; and

"(3) Rescue and relief equipment and supplies for emergent temporary use in connection with floods and other disasters.

Any articles admitted under the authority of this subsection and used otherwise than for a purpose herein expressed, or not exported in such time and manner as may be prescribed in the regulations or instructions herein authorized, shall be forfeited to the United States." (Tariff Act of 1930, sec. 322 (b), as amended; 19 U.S.C. 1322(b))

lector of customs or the Bureau, shall be seized and forfeited to the United States.

(Sec. 14, 67 Stat. 516; 19 U. S. C. 1322 (b))

PRODUCTS EXPORTED UNDER LEASE AND REIMPORTED

§ 10.108 Entry of reimported articles exported under lease.

(a) Free entry shall be accorded under item 801.00, Tariff Schedules of the United States,[100] whenever it is established to the satisfaction of the collector of customs that the article for which free entry is claimed was duty paid on a previous importation, is being reimported without having been advanced in value or improved in condition by any process of manufacture or other means, was exported from the United States under a lease to a foreign manufacturer, and is being reimported by or for the account of the person who previously imported it into, and exported it from, the United States.

(b) There shall be filed in connection with the entry a statement specifying the port at which duty was previously paid on the article and the number and date of the previous entry; the date of exportation to the lessee abroad; the number and date of the export declaration; and the designation of the vessel or other carrier on which the article was exported. If such information is not filed at the time of entry, a bond as provided for in § 8.28 (a) of this chapter shall be taken for its production.

STRATEGIC MATERIALS OBTAINED BY BARTER OR EXCHANGE

§ 10.110 Strategic materials acquired as a result of barter or exchange of agricultural commodities or products.

(a) Upon notification by the Commodity Credit Corporation, or by another government agency designated by the Commodity Credit Corporation to act for it, of the name of an importer who has contracted with the Commodity Credit Corporation to barter or exchange agricultural products for strategic materials, and a description identifying a shipment to be made in compliance with such a contract, the collector shall accept an entry covering such shipment for the account of the importer claiming exemption from duty under item 836.00, Tariff Schedules of the United States.[102] Upon submission to the collector of a certificate executed in the following form, the entry shall be liquidated free of duty under item 836.00, Tariff Schedules of the United States:

I hereby certify that the above described materials covered by this certificate are strategic materials acquired by the Commodity Credit Corporation as a result of barter or exchange of agricultural commodities or products as provided for in section 303 of the Agricultural Trade Development and Assistance Act of 1954 (7 U. S. C. 1692). Free entry under the provisions of item 836.00, Tariff Schedules of the United States, is claimed.

(Name)

(Title)

Who has been designated by Commodity Credit Corporation, or other government agency, under authority from the Commodity Credit Corporation, to make claim for free entry, and to execute certifications necessary to establish the right to exemption from duty.

(b) When the certification set forth in paragraph (a) of this section is not on a copy of the entry form, it must clearly and unmistakably identify the material covered by the entry.

WOOLEN TEXTILES

§ 10.111 Woolen textiles imported to be used in the manufacture of apparel for members of religious orders.

(a) Serges, weighing not over 6 ounces per square yard, and other fabrics weighing not over 4 ounces per square yard, all the foregoing (not including hand-woven fabrics with a loom width of less than 30 inches), of sheep's wool, valued over $4 per pound, in solid colors, imported to be used in the manufacture of apparel for members of religious orders, entered, or withdrawn from warehouse, for consumption under item 336.20 or item 336.25, Tariff Schedules of the United States, may be released on deposit of estimated duties at the rate applicable under the appropriate item if there is filed with the entry or the withdrawal a declaration of a person having knowledge of the facts that the fabrics were imported to be used in the manufacture of apparel for members of religious orders. Liquidation of the entry covering the fabrics shall be suspended until the proof of use provided for in paragraph (b) of this section is furnished or the time allowed for the production thereof has expired.

(b) Within 1 year from the date of the entry (in case of warehouse entries as well as consumption entries) or any extension of that period as hereinafter provided for, the importer shall furnish proof of use satisfactory to the collector that the imported fabrics have been used in the manufacture of apparel for members of religious orders. The collector may, upon written application of the importer before the expiration of the initial or any extended period, extend the period for further periods of 1 year each, but not to exceed 5 years from the date of entry. The proof of use shall be based on adequate and carefully kept records of the importer, which shall be open at all times to inspection by employees of the Customs Service and which shall be retained for a period of 3 years from the date of liquidation of the entry.

(c) When proof of use is not furnished within the 1 year period or any extension thereof provided for in paragraph (b) of these regulations, the entry shall be liquidated at the appropriate rate applicable under schedule 3, part 3C, Tariff Schedules of the United States.

LATE FILING OF FREE ENTRY DOCUMENTS

§ 10.112 Filing free entry documents after entry.

Whenever a document, form, or statement required by regulations in this part to be filed in connection with the entry is not filed at the time of the entry or within the period for which a bond was filed for its production but failure to file it was not due to willful negligence or fraudulent intent, such document, form, or statement may be filed at any time prior to liquidation of the entry or, if the entry was liquidated, before the liquidation becomes final.

PUMICE STONE

§ 10.113 Pumice stone to be used in the manufacture of concrete masonry products, such as building blocks, bricks, tiles, and similar forms.

(a) Pumice stone, when entered, or withdrawn from warehouse, for consumption, to be used in the manufacture of concrete masonry products, such as building blocks, bricks, tiles, and similar forms, may be released without the payment of duties, if there is filed with the entry or withdrawal a declaration of a person having knowledge of the facts that the pumice stone was imported to be used in the manufacture of concrete masonry products, such as building blocks, bricks, tiles, and similar forms. Liquidation of the entry covering the pumice stone shall be suspended until the proof of use provided for in paragraph (b) of this section is furnished or the time allowed for the production thereof has expired.

(b) Within 1 year from the date of the entry (in the case of warehouse entries as well as consumption entries) or any extension of that period as hereinafter provided for, the importer shall furnish proof of use satisfactory to the collector that the imported pumice stone has been used in the manufacture of concrete masonry products, such as building blocks, bricks, tiles, or similar forms. The collector may, upon written application of the importer before the expiration of the initial or any extended period, extend the period for further periods of 1 year each, but not to exceed 5 years from the date of entry. The proof of use shall be based on adequate and carefully kept records of the importer, which shall be open at all times to inspection by employees of the Customs Service and which shall be retained for a period of 3 years from the date of liquidation of the entry.

(c) When proof of use is not furnished within the 1 year period or any extension thereof provided for in paragraph (b) hereof, the entry shall be liquidated with the assessment of duty at the appropriate rate, if any.

---

[100] "Articles, previously imported, with respect to which the duty was paid upon such previous importation, if (1) reimported, without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, after having been exported under lease to a foreign manufacturer, and (2) reimported by or for the account of the person who imported it into, and exported it from, the United States * * *." (Item 801.00, Tariff Schedules of the United States.)

[102] "Articles for the Commodity Credit Corporation: Materials certified by it to the Commissioner of Customs to be strategic materials acquired by that agency as a result of barter or exchange of agricultural commodities or products * * *." (Item 836.00, Tariff Schedules of the United States.)

PART 11—PACKING AND STAMPING; MARKING; TRADE-MARKS AND TRADE NAMES; COPYRIGHTS

PACKING AND STAMPING

Sec.
11.1 Cigars, cigarettes, medicinal preparations, and perfumery.
11.2 Manufactured tobacco.
11.2a Release from customs custody without payment of tax of tobacco materials; tobacco products; cigarette papers and tubes.
11.3 Package and notice requirements for tobacco products; package requirements for cigarette papers and tubes.
11.4 Playing cards.
11.5 Oleomargarine; adulterated butter; filled cheese.
11.6 Distilled spirits, wines, and malt liquors in casks and similar containers.
11.7 Distilled spirits and other alcoholic beverages imported in bottles and similar containers; regulations of the Internal Revenue Service.

MARKING

11.8 Marking of articles and containers to indicate name of country of origin.
11.9 Special marking on certain articles.
11.10 Exceptions to marking requirements.
11.11 Disposition of articles not properly marked.
11.12 Labeling of wool products to indicate fiber content.
11.12a Labeling of fur products to indicate composition.
11.12b Labeling textile fiber products.
11.13 False designations of origin and false descriptions; false marking of articles of gold or silver.

TRADE-MARKS AND TRADE NAMES

11.14 Trade-marks and trade names; prohibition of importation.
11.15 Trade-marks; recording; change of ownership; renewal.
11.16 Trade names; recording.
11.17 Detention; seizure; exportation; release.

COPYRIGHTS

11.18 False notice of copyright.
11.19 Recordation of copyrighted works.
11.20 Piratical copies.
11.21 United States manufacturing requirements; copies not produced in accordance with 17 U.S.C. 16.

AUTHORITY: §§ 11.1 to 11.21 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

PACKING AND STAMPING

§ 11.1 Cigars, cigarettes, medicinal preparations, and perfumery.

(a) All cigars and cigarettes imported into the United States, except importations by mail and in baggage, shall be placed in the public stores or in a designated bonded warehouse to remain until inspected, weighed, and repacked, if necessary, under the customs and internal-revenue laws. However, if the invoice and entry presented specify all of the information necessary for prompt determination of the estimated duty and tax on the packages of cigars and cigarettes covered thereby, the collector may permit designation of less than the entire importation for examination.

(b) After the cigars and cigarettes have been examined, weighed, and appraised, before release the inspecting officer shall verify that they are in properly constructed packages, conforming to the requirements of the regulations of the Internal Revenue Service, bearing a legible imprint or a securely affixed label stating the quantity, kind, and classification for tax purposes as required by such regulations. Cigars or cigarettes must be in compliance with such requirements before being released for consumption unless specifically exempted therefrom as indicated in § 11.3.

(c) The immediate containers of all domestic cigars, cigarettes, medicinal preparations, and perfumery, which are returned to the United States and are subject to a duty equal to an internal-revenue tax, shall be stamped by the customs inspector with a rubber stamp bearing the legend "U.S. Customs—American Goods Returned—_____, Inspector." The inspector's initials shall appear in the space provided therefor. The packaging requirements set forth in paragraph (b) of this section apply to returned cigars and cigarettes of domestic origin.

§ 11.2 Manufactured tobacco.

(a) Manufactured tobacco must be in compliance with package and notice requirements for internal revenue purposes (26 CFR Part 275) before being released for consumption unless specifically exempted therefrom as indicated in § 11.3. If the invoice and entry presented for manufactured tobacco specify all of the information necessary for prompt determination of the estimated duty and tax on the manufactured tobacco covered thereby, the collector may permit designation of less than the entire importation for examination.

(b) In the case of returned American manufactured tobacco, the packages shall be marked or stamped by customs with the inscription "American goods returned."

§ 11.2a Release from customs custody without payment of tax of tobacco materials; tobacco products; cigarette papers and tubes.

(a) Tobacco materials subject to internal revenue tax under section 5701 or 7652 of the Internal Revenue Code of 1954 may be released from customs custody without payment of tax for delivery to a dealer in tobacco materials or to a manufacturer of tobacco products in accordance with regulations of the Internal Revenue Service (26 CFR Part 275), except that as stated in § 9.8(a)(2) of this chapter such a release may not be made under a mail entry. Upon such a release, the additional copy of the customs entry or withdrawal form marked or stamped "For Internal Revenue Purposes" shall be returned to the dealer or manufacturer for his retention.

(b) Tobacco products and cigarette papers and tubes may be released from customs custody without payment of any applicable internal revenue tax upon presentation with the customs entry or withdrawal form of Internal Revenue Form 2145 or 3072 in triplicate, certified by the appropriate assistant regional commissioner (alcohol and tobacco tax). Customs shall complete the notice of release, retain one copy, send one copy to the assistant regional commissioner, and return one copy to the manufacturer for his retention. Such a release may not be made under a mail entry as stated in § 9.8(a)(2) of this chapter.

§ 11.3 Package and notice requirements for tobacco products; package requirements for cigarette papers and tubes.

Exemptions from tax on tobacco products and cigarette papers and tubes apply in accordance with regulations of the Internal Revenue Service (26 CFR 275.45) upon release from customs custody of such articles imported by consular officers and employees of foreign states. Exemptions from tax apply to samples of cigars, cigarettes, manufactured tobacco, and cigarette tubes upon release from customs custody in accordance with 26 CFR 275.46, 275.47, and 275.48. Tobacco products and cigarette papers and tubes may also be released without payment of tax as provided in § 11.2a(b) and for exhibition in accordance with Part 32 of this chapter. Additionally, tobacco products or cigarette papers and tubes may be admitted free of duty and tax under the provisions of schedule 8, part 2A, Tariff Schedules of the United States, or section 321, Tariff Act of 1930, as amended, §§ 10.29, 10.30, 10.30a, 10.30b, 10.30c, 23.4(c) or Part 54 of this chapter. Except in the foregoing instances and in any instance that such articles are imported in passengers' baggage or are to be released under a mail entry for the personal consumption of the importer or for disposition as his bona fide gift, the provisions in Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275) as to packages and notices thereon apply.

§ 11.4 Playing cards.

(a) Imported playing cards subject to tax under section 4451, Internal Revenue Code of 1954, not bearing stamps in payment of the tax affixed abroad in accordance with regulations of the Internal Revenue Service (26 CFR Part 45, subpart B), shall not be released for consumption until the required internal-revenue stamps have been affixed thereto and canceled by the importer in accordance with such regulations.[3] Imported playing cards bearing the required stamps affixed abroad may be treated the same as any importation subject only to duty.

(b) The immediate containers of reimported domestic playing cards which are subject to a duty equal to an internal-revenue tax shall be stamped by the customs inspector with a rubber hand stamp bearing the legend—"U.S. Customs—American goods returned _____ Inspector," to denote the payment of duty equal to the internal-revenue tax. The inspector's initials shall appear in the space provided therefor.

§ 11.5 Oleomargarine; adulterated butter; filled cheese.

Imported oleomargarine, adulterated butter, and filled cheese are subject to

special packaging requirements under regulations of the Internal Revenue Service (26 CFR Part 45, Subparts E, G, and H, respectively), and to internal-revenue taxes imposed in addition to duty under sections 4591, 4812, and 4831, Internal Revenue Code of 1954, the payment of which must be represented by stamps.[2] Imported merchandise suspected of being such articles, but not entered as such, shall be detained by the collector of customs and the facts reported to the district director of internal revenue of the district, to whom such samples shall be furnished as may be requested. Imported oleomargarine, adulterated butter, and filled cheese shall not be released from customs custody until the proper internal-revenue stamps have been affixed and canceled by the importer as required by the regulations of the Internal Revenue Service.

[T.D. 55340, 26 F.R. 2552, Mar. 25, 1961]

§ 11.6 Distilled spirits, wines, and malt liquors in casks and similar containers.

All distilled spirits, wines, and malt liquors imported in pipes, hogsheads, tierces, barrels, casks, or other similar packages shall be stamped in accordance with 19 U.S.C. 467.[3] The provision in that section that such spirits, wines, and liquors shall be first placed in public store or bonded warehouse is construed as directory only and such merchandise, unless otherwise required to be sent to the public store, may, in the discretion of the collector, be inspected, gauged, marked, and stamped at the place of unlading or at another suitable place if, in the opinion of the collector such inspecting, gauging, marking, and stamping can be done with facility and effectiveness.

(Sec. 11, 20 Stat. 342; 19 U.S.C. 467)

§ 11.7 Distilled spirits and other alcoholic beverages imported in bottles and similar containers; regulations of the Internal Revenue Service.

The importation of distilled spirits and other alcoholic beverages in bottles and similar containers is subject to regulations of the Internal Revenue Service relating to strip stamps and other matters. (27 CFR Part 7, 26 CFR Parts 175, 225, and 251). Customs officers and employees shall perform such functions as are necessary or proper on their part to carry out such regulations.

MARKING

§ 11.8 Marking of articles and containers to indicate name of country of origin.

(a) The term "country" as used in section 304, Tariff Act of 1930, as amended,[4] requiring the marking of articles to indicate the country of origin, shall be considered to mean the political entity known as a nation. Colonies, possessions, or protectorates, outside the boundaries of the mother country shall be considered separate countries. The name of any such colony, possession, or protectorate shall be considered acceptable marking, except when the Bureau finds that the name is not sufficiently well known to insure that the ultimate purchasers will be fully informed of the country of origin, or where the name appearing alone may cause confusion, deception, or mistake.[5]

(b) The marking required by such section 304 shall include the English name of the country of origin, unless other marking to indicate the English name of the country of origin is specifically authorized by the Bureau.[6] The adjectival form of the name of a country shall be accepted as a proper indication of the name of the country of origin of imported merchandise, provided the adjectival form of the name does not appear with other words so as to refer to a kind or species of product. For example, such terms as "English walnuts" or "Brazil nuts" are unacceptable. Variant spellings which clearly indicate the English name of the country of origin, such as Brasil for Brazil and Italie for Italy, are acceptable. Abbreviations which unmistakably indicate the name of a country, such as "Gt. Britain" for "Great Britain" and "Br. N. Borneo" for "British North Borneo," are acceptable.

(c) The country of manufacture or production shall be considered the country of origin. Further work or material added to an article in another country must affect a substantial transformation in order to render such other country the "country of origin" within the meaning of this section.

(d) Subject to the exceptions specified in section 304(a)(3), Tariff Act of 1930, as amended, articles such as knives, clippers, shears, safety razors, surgical instruments, scientific and laboratory instruments, pliers, pincers, and parts thereof, and vacuum containers and parts thereof shall be marked legibly and conspicuously to indicate its origin by die stamping, cast-in-the-mold lettering, etching (acid or electrolytic), engraving, or by means of metal plates which bear the prescribed marking and which are securely attached to the article in a conspicuous place by welding, screws, or rivets. The articles described above are classifiable under the following items of the Tariff Schedules of the United States:

545.31	709.13
545.34–545.35	709.15
545.37	709.19–709.27
648.63	709.56
648.71	710.04
648.73	710.08
648.75	710.12
648.81	710.36
648.85	710.42
648.91	710.50
649.71–650.49	710.60
650.61–650.75	710.61
650.79–650.91	710.63
651.13	710.76
660.90	710.80
661.70	711.08
661.90	711.25
661.95	711.42
683.40	711.45
683.95	711.88
684.40	712.15
686.70	712.20
708.78	712.50
708.82	726.10
709.07	

In the case of other classes of articles, the exact method of marking to meet the requirements of section 304, Tariff Act of 1930, as amended, is not specified in these regulations or elsewhere. When an article not classifiable under an item specified above is required to be marked under section 304 to indicate its origin, any method of legible and conspicuous marking is acceptable which will remain on the article (or its container, when the container and not the article is required to be marked) until it reaches the ultimate purchaser. The marking must in all cases be legible and conspicuous and of a degree of permanency which will assure that in any reasonably foreseeable circumstance the marking, unless it is deliberately removed, will remain on the article (or its container) until it reaches the

---

[2] Internal-revenue stamps for imported playing cards, oleomargarine, adulterated butter, and filled cheese will be sold to the owner or consignee of the merchandise by the district director of internal revenue for the district in which is located the office of the collector of customs where the customs entry is filed, upon requisition therefor on the order form duly executed by an authorized customs officer.

[3] "All distilled spirits, wines, and malt liquors, imported in pipes, hogsheads, tierces, barrels, casks, or other similar packages, shall be first placed in public store or bonded warehouse, and shall not be removed therefrom until the same shall have been inspected, marked, and branded by a United States customs-gauger, and a stamp affixed to each package, indicating the date and particulars of such inspection; and the Secretary of the Treasury is authorized to prescribe the form of, and provide, the requisite stamps, and to make all regulations which he may deem necessary and proper for carrying the foregoing requirements into effect. Any pipe, hogshead, tierce, barrel, cask, or other package withdrawn from public store or bonded warehouse purporting to contain imported liquor, found without having thereon the stamp hereby required shall be, with its contents, forfeited to the United States; * * *." (19 U. S. C. 467)

"Beverages in this subpart, containing over 24 percent of ethyl alcohol by volume when imported, are classed as spirits under item 168.50." (Schedule 1, part 12C, headnote 1, Tariff Schedules of the United States.)

[4] "Except as hereinafter provided, every article of foreign origin (or its container, as provided in subsection (b) hereof) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container will permit in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. The Secretary of the Treasury may by regulations—

"(1) Determine the character of words and phrases or abbreviations thereof which shall be acceptable as indicating the country of origin and prescribe any reasonable method of marking, whether by printing, stenciling, stamping, branding, labeling, or by any other reasonable method, and a conspicuous place on the article (or container) where the marking shall appear; * * *." (Tariff Act of 1930, sec. 304 (a) as amended; 19 U. S. C. 1304 (a))

[5] In such cases, the Bureau will specify in decisions which will be published in the weekly Treasury Decisions the additional marking to be used in conjunction with the name of the colony, possession, or protectorate.

[6] Notices of acceptable markings other than the English name of the country of origin will be published from time to time in the Treasury Decisions.

moved, will remain on the article (or its container) until it reaches the ultimate purchaser. For example, if chinaware is marked by means of paper sticker labels, the labels, legibly indicating the English name of the country of origin, must be affixed to the chinaware in a conspicuous place and so securely that unless deliberately removed they will remain on the chinaware while it is in storage or on display and until it is delivered to the purchaser at retail or other ultimate purchaser. Similarly, when tags are used, the tags, legibly indicating origin, must be attached in a conspicuous place and in a manner which assures that unless deliberately removed they will remain on the article until it reaches the ultimate purchaser.

(e) If an imported article is to be used in the United States in the manufacture of an article having a name, character, or use differing from that of the imported article, the principle of the decision in the case of United States v. Gibson-Thomsen Co., Inc. (C. A. D. 98) will apply to such imported article. Under this principle, the manufacturer or processor in the United States who will convert or combine the imported article into the different article will be considered the "ultimate purchaser" [6a] of the imported article within the contemplation of section 304 (a), Tariff Act of 1930, as amended.

(f) Articles of foreign manufacture or production imported into any possession of the United States outside its customs territory (section 401 (k), Tariff Act of 1930, as amended) and reshipped to the United States are subject to all marking requirements applicable to like articles of foreign origin imported directly from a foreign country to the United States.

(g) When an imported article is of a kind which is usually combined with another article subsequent to importation but before delivery to an ultimate purchaser, and the name indicating the country of origin of the article appears in a place on the article so that the name will be visible after such combining, the marking shall include, in addition to the name of the country of origin, words or symbols which shall clearly show that the origin indicated is that of the imported article only and not that of any other article with which the imported article may be combined subsequent to importation. For example, bottles, drums, or other containers imported empty, to be filled in the United States, shall be marked with such words as "Bottle (or drum or container) made in (name of country)." Labels and similar articles so marked that the name of the country of origin of the article is visible after it is affixed to another article in this country shall be marked with additional descriptive words such as "Label made (or printed) in (name of country)" or words of similar import.[7] This paragraph shall not apply to articles of a kind which are ordinarily so substantially changed in this country that the articles in their changed condition become products of the United States. An article excepted from marking under § 11.10 is not within the scope of section 304 (a) (2), Tariff Act of 1930, as amended, and is not subject to the requirements of this paragraph.

(h) In the case of containers required to be marked in accordance with section 304 (b), Tariff Act of 1930, as amended,[8] the container to be marked shall be the outermost container in which the article ordinarily reaches the ultimate purchaser.

(i) If an article is excepted under § 11.10 from the marking requirements, its container shall be marked to indicate the country of origin of the contained article, unless the container is exempt from marking by reason of the second sentence of section 304 (b), Tariff Act of 1930, as amended, or because the container itself is within an exception covered by § 11.10. This requirement applies even though the excepted article is itself actually marked to indicate the country of its origin.

(j) Containers or holders for imported merchandise subject to treatment as imported articles within the purview of general headnote 6, Tariff Schedules of the United States, shall be marked to indicate clearly the country of their own origin in addition to any marking which may be required to show the country of origin of their contents.

(k) The duty of 10 percent provided for in subsection (c) of section 304, Tariff Act of 1930, as amended,[9] accrues upon merchandise not legally marked, exported, or destroyed prior to the liquidation of the entry covering it and shall be assessed upon the dutiable value as defined in section 503, Tariff Act of 1930, as amended. The 10 percent additional duty is assessable for failure either to mark the article (or container) to indicate the English name of the country of origin of the article or to include words or symbols required to prevent deception or mistake. When an article is to be exported or destroyed, or the article (or its container) is to be marked under customs supervision, under subsection (c) of such section 304, the identity of the imported article shall be established to the satisfaction of the collector.

(l) No article which has been repacked under § 19.8 of this chapter, manipulated under section 562, Tariff Act of 1930, as amended, or manipulated (but not manufactured) in a foreign-trade zone as provided for in § 30.12 of this chapter shall be withdrawn for consumption unless such article (or its container) is marked in accordance with the provisions of section 304, Tariff Act of 1930, as amended, at the time of withdrawal or transfer to customs territory,[10] except when the article and its container were exempt at the time of importation from marking by reason of § 11.10.

(m) The compensation of customs officers and employees assigned to supervise the exportation, destruction, or marking of articles so as to exempt them from the application of marking duties shall be computed in accordance with § 19.5 (b) of this chapter, except to the extent that such supervision is performed by a customs officer or employee in an overtime status, in which case the com-

---

[6a] It is not feasible to state who will be the "ultimate purchaser" in every circumstance. Broadly stated, an "ultimate purchaser" may be defined as the last person in the United States who will receive the article in the form in which it was imported. If an imported article will be used in manufacture, the manufacturer is the "ultimate purchaser." If an article is to be sold at retail in its imported form, the purchaser at retail is the "ultimate purchaser." A person who subjects an imported article to a process which results in a substantial transformation of the article, even though the process may not result in a new or different article, may be an "ultimate purchaser" in certain circumstances; but if the process is merely a minor one which leaves the identity of the imported article intact, the consumer or user of the article, who purchases it after the processing, will be regarded as the "ultimate purchaser."

[7] See sec. 304 (a) (2), Tariff Act of 1930, as amended; 19 U. S. C. 1304 (a) (2).

[8] "Whenever an article is excepted under subdivision (3) of subsection (a) of this section from the requirements of marking, the immediate container, if any, of such article, or such other container or containers of such article as may be prescribed by the Secretary of the Treasury, shall be marked in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of such article, subject to all provisions of this section, including the same exceptions as are applicable to articles under subdivision (3) of subsection (a). If articles are excepted from marking requirements under clause (F), (G), or (H) of subdivision (3) of subsection (a) of this section, their usual containers shall not be subject to the marking requirements of this section. Usual containers in use as such at the time of importation shall in no case be required to be marked to show the country of their own origin." (Tariff Act of 1930, sec. 304 (b), as amended; 19 U. S. C. 1304 (b))

[9] "If at the time of importation any article (or its container, as provided in subsection (b) hereof) is not marked in accordance with the requirements of this section, and if such article is not exported or destroyed or the article (or its container, as provided in subsection (b) hereof) marked after importation in accordance with the requirements of this section (such exportation, destruction, or marking to be accomplished under customs supervision prior to the liquidation of the entry covering the article, and to be allowed whether or not the article has remained in continuous customs custody), there shall be levied, collected, and paid upon such article a duty of 10 per centum ad valorem, which shall be deemed to have accrued at the time of importation, shall not be construed to be penal, and shall not be remitted wholly or in part nor shall payment thereof be avoidable for any cause. Such duty shall be levied, collected, and paid in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary customs duties. * * *" (Tariff Act of 1930, sec. 304 (c), as amended; 19 U. S. C. 1304 (c))

[10] "No imported article held in customs custody for inspection, examination, or appraisement shall be delivered until such article and every other article of the importation (or their containers), whether or not released from customs custody, shall have been marked in accordance with the requirements of this section or until the amount of duty estimated to be payable under subsection (c) of this section has been deposited. Nothing in this section shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law." (Tariff Act of 1930, sec. 304 (d), as amended; 19 U. S. C. 1304 (d))

pensation with respect to the overtime shall be computed in accordance with § 24.16 of this chapter.[11] The time for which compensation is charged shall include all periods devoted to supervision and all periods during which such officers or employees are away from their regular posts of duty by reason of such assignment and for which compensation to such officers and employees is provided for by law. In formulating charges for expenses pertaining to such supervision, there shall be included all expenses of transportation, per diem allowance in lieu of subsistence, and all other expenses incurred by such officers and employees by reason of such supervision. If the aggregate amount of compensation and expenses with respect to a single assignment, computed as herein provided, is less than 50 cents, no charge shall be made with respect to such assignment. If the importations of more than one importer are concurrently supervised, the service rendered for each importer shall be regarded as a separate assignment, but the total amount of the compensation, and any expenses properly applicable to more than one importer, shall be equitably apportioned among the importers concerned.

(Sec. 304, 46 Stat. 687, as amended; 19 U.S.C. 1304)

§ 11.9 Special marking on certain articles.

(a) No movement, case, or dial provided for in schedule 7, part 2E, Tariff Schedules of the United States, shall be released for consumption until marked in exact compliance with the requirements of headnote 4 of that subpart. If any article so required to be marked is found not to be marked to indicate the country of origin, the 10 percent marking duty shall be assessed, unless such marking is accomplished or the merchandise is exported or destroyed under customs supervision prior to the liquidation of the entry, in accordance with the provisions of section 304(c), Tariff Act of 1930, as amended.

[11] "• • • The compensation and expenses of customs officers and employees assigned to supervise the exportation, destruction, or marking to exempt articles from the application of the duty provided for in this subsection shall be reimbursed to the Government by the importer." (Tariff Act of 1930, sec. 304 (c), as amended; 19 U. S. C. 1304 (c))

(b) The name of the manufacturer or purchaser which must appear on articles provided for in schedule 7, part 2E, Tariff Schedules of the United States, and specified in headnote 4 of that subpart, may be either the actual name of the manufacturer or purchaser or a duly registered trade name under which such manufacturer or purchaser carries on his business. A trade-mark shall not be accepted as meeting any such special marking requirement unless it includes the full name of the manufacturer or purchaser. The term "purchaser" as used in this paragraph means the purchaser in the United States by whom or for whose account the articles are imported.

§ 11.10 Exceptions to marking requirements.

(a) Articles within any specification in section 304(a)(3), Tariff Act of 1930, as amended,[12] are hereby excepted from the requirement of marking. The marking of the container of an article will reasonably indicate the origin of such article within the meaning of section 304(a)(3)(D) if the article is imported (or repacked under section 562, Tariff Act of 1930, as amended) in a container which will reach the ultimate purchaser in the United States unopened. An article which is to be processed in the United States by the importer or for his account shall not be considered to be within the specifications of section 304 (a) (3) (G) if there is a reasonable method of marking which will not be obliterated, destroyed, or permanently concealed by such processing. The exceptions under section 304 (a) (3) (J) are set forth in T. D. 49690, T. D. 49835, T. D. 49896, and T. D. 54167.

(b) The following articles and their containers are not subject to the marking requirements of section 304, as amended, or the requirements of § 11.9 of these regulations:

(1) Articles entered or withdrawn for immediate exportation or for transportation and exportation;

(2) Products of American fisheries which are free of duty;

(3) Products of possessions of the United States.

(4) Products of the United States exported and returned;

(5) Articles exempt from duty under § 8.3 or 9.6 of this chapter.

(Sec. 304, 46 Stat. 687, as amended; 19 U. S. C. 1304)

[12] "• • • The Secretary of the Treasury may by regulations—

• • • • • •

"(3) Authorize the exception of any article from the requirements of marking if—

"(A) Such article is incapable of being marked;

"(B) Such article cannot be marked prior to shipment to the United States without injury;

"(C) Such article cannot be marked prior to shipment to the United States, except at an expense economically prohibitive of its importation;

"(D) The marking of a container of such article will reasonably indicate the origin of such article;

"(E) Such article is a crude substance;

"(F) Such article is imported for use by the importer and is not intended for sale in its imported or any other form;

"(G) Such article is to be processed in the United States by the importer or for his account otherwise than for the purpose of concealing the origin of such article and in such manner that any mark contemplated by this section would necessarily be obliterated, destroyed, or permanently concealed;

"(H) An ultimate purchaser, by reason of the character of such article or by reason of the circumstances of its importation, must necessarily know the country of origin of such article even though it is not marked to indicate its origin;

"(I) Such article was produced more than twenty years prior to its importation into the United States;

"(J) Such article is of a class or kind with respect to which the Secretary of the Treasury has given notice by publication in the weekly Treasury Decisions within two years after July 1, 1937, that articles of such class or kind were imported in substantial quantities during the five-year period immediately preceding January 1, 1937, and were not required during such period to be marked to indicate their origin: *Provided*, That this subdivision (J) shall not apply after September 1, 1938, to sawed lumber and timbers, telephone, trolley, electric-light, and telegraph poles of wood, and bundles of shingles; but the President is authorized to suspend the effectiveness of this proviso if he finds such action required to carry out any trade agreement entered into under the authority of the Act of June 12, 1934 (U. S. C., 1934 edition, title 19, secs. 1351–1354), as extended; or

"(K) Such article cannot be marked after importation except at an expense which is economically prohibitive, and the failure to mark the article before importation was not due to any purpose of the importer, producer, seller, or shipper to avoid compliance with this section." (Tariff Act of 1930, sec. 304 (a) (3), as amended; 19 U. S. C. 1304 (a) (3))

§ 11.11 Disposition of articles not properly marked.

(a) The appraiser, acting for the collector, shall notify the importer on customs Form 4647 to arrange with the collector's office to properly mark the articles or containers found upon examination not to be legally marked, or to return the unexamined packages to customs custody for exportation, or destruction. Such marking, exportation, or destruction shall be at the expense of the importer and under customs supervision.[13]

(b) Articles (or containers) in examination packages may be marked in the appraiser's stores by the importer in accordance with the provisions of section 304, Tariff Act of 1930, as amended, or the requirements of § 11.9 of the regulations of this part. If it is impracticable to mark such articles (or containers) in the appraiser's stores, the merchandise may be turned over to the importer for proper marking upon the deposit of adequate security to insure compliance with the marking requirements and the payment of any additional expense which will be incurred on account of customs supervision. If such merchandise is not exported, destroyed, or properly marked by the importer within a reasonable time, it shall be sent to general-order stores unless covered by a warehouse entry, and, if not exported within 1 year from the date of entry, shall be sold as abandoned merchandise upon the condition that it be marked by the purchaser under customs supervision or exported under such supervision.

(c) If in any case articles subject to marking, which have been released from customs custody, are not returned or properly marked within 30 days from the date of the requisition therefor, the collector shall demand payment of the liquidated damages incurred under the bond in an amount equal to the entered value of the articles not returned, plus any estimated duty thereon as determined at the time of entry. If payment is not made or an application for relief from such payment is not filed within the period prescribed in § 25.15 (e) of this chapter, the collector shall proceed in accordance with the provisions of that section. Any relief from the payment of the full liquidated damages incurred

[13] See footnotes 9 and 10.

will be contingent upon the showing made concerning diligence and good

[illegible] of customs officers and employees assigned to supervise the [illegible]

be reported to the Federal Trade Com-

lector is not fully satisfied that they have

will be contingent upon the showing made concerning diligence and good faith shown by the importer in attempting to secure compliance with the marking requirements.

(d) If a written application for relief is timely filed, such application, together with a full report of the facts, shall be transmitted to the Bureau for decision, except that in cases involving only marking under section 304 of the tariff act, as amended, if the full amount of liquidated damages incurred for failure to redeliver does not exceed $20,000, collectors of customs are hereby authorized to cancel the liability incurred without the collection of liquidated damages, provided the marking duty due under that section of the tariff act has been deposited, and the collector is satisfied that the importer was not guilty of negligence or bad faith in permitting the not-properly-marked articles to be distributed, has been diligent in attempting to secure compliance with the marking requirements, and has attempted by all reasonable means to effect redelivery.

(Secs. 304, 623, 46 Stat. 687, as amended, 759, as amended; 19 U.S.C. 1304, 1623)

§ 11.12 Labeling of wool products to indicate fiber content.

(a) Wool products imported into the United States, except those made more than 20 years prior to importation, and except carpets, rugs, mats, and upholsteries, shall have affixed thereto a stamp, tag, label, or other means of identification, as required by the Wool Products Labeling Act of 1939 (54 Stat. 1129; 15 U.S.C. 68 et seq) and the rules and regulations promulgated thereunder by the Federal Trade Commission (16 CFR Part 300). The term "wool product" means any product, or any portion of a product, which contains, purports to contain, or in any way is represented as containing wool, reprocessed wool, or reused wool.

(b) If imported wool products are not correctly labeled and the collector is satisfied that the error or omission involved no fraud or willful neglect, the importer shall be afforded a reasonable opportunity to label the merchandise under customs supervision to conform with the requirements of such act and the rules and regulations of the Federal Trade Commission. The compensation and expenses of customs officers and employees assigned to supervise the labeling shall be reimbursed to the Government and shall be assessed in the same manner as in the case of marking of country of origin, § 11.8 (m).

(c) Packages of wool products subject to the provisions of this section which are not designated for examination may be released pending examination of the designated packages, but only if there shall have been filed in connection with the entry the usual customs single entry or term bond in such amount as is prescribed for such bonds in §§ 25.3 and 25.4 of this chapter.

(d) The collector of customs shall give written notice to the importer of any lack of compliance with the Wool Products Labeling Act of 1939 in respect of an importation of wool products, and pursuant to § 8.26 of this chapter shall demand the immediate return of the involved products to customs custody, unless the lack of compliance is forthwith corrected.

(e) If the products covered by a notice and demand given pursuant to paragraph (d) of this section are not promptly returned to customs custody and the collector is not fully satisfied that they have been brought into compliance with the Wool Products Labeling Act of 1939, appropriate action shall be taken to effect the collection of liquidated damages in an amount equal to the entered value of the merchandise not redelivered, plus the estimated duty thereon as determined at the time of entry, unless the owner or consignee shall file with the appropriate customs officer an application for cancelation of the liability incurred under the bond upon the payment as liquidated damages of a lesser amount than the full amount of the liquidated damages incurred, or upon the basis of such other terms and conditions as the Secretary of the Treasury may deem sufficient. The application shall contain a full statement of the reasons for the requested cancellation and shall be in duplicate.

(f) If any fraudulent violation of the act with respect to imported articles comes to the attention of the collector of customs, the involved merchandise shall be placed under seizure, or a demand shall be made for the redelivery of the merchandise if it has been released from customs custody, and the case shall be reported to the Federal Trade Commission, Washington, D. C.

(Sec. 8, 54, Stat. 1132; 15 U.S.C. 68f)

§ 11.12a Labeling of fur products to indicate composition.

(a) Fur products imported into the United States shall have affixed thereto a label as required by section 4 of the Fur Products Labeling Act (15 U.S.C. 69b) and the rules and regulations promulgated thereunder by the Federal Trade Commission (16 CFR 301.1–301.49). The term "fur product" means any article of wearing apparel made in whole or in part of fur or used fur; except that such term shall not include such articles as the Federal Trade Commission shall exempt by reason of the relatively small quantity or value of the fur or used fur contained therein.

(b) If imported fur products are not correctly labeled and the collector is satisfied that the error or omission involved no fraud or wilful neglect, the importer shall be afforded a reasonable opportunity to label the merchandise under customs supervision to conform with the requirements of such act and the rules and regulations of the Federal Trade Commission. The compensation and expenses of customs officers and employees assigned to supervise the labeling shall be reimbursed to the Government and shall be assessed in the same manner as in the case of marking of country of origin, § 11.8(m).

(c) Packages of fur products subject to the provisions of this section which are not designated for examination may be released pending examination of the designated packages, but only if there shall have been filed in connection with the entry the usual customs single entry or term bond in such amount as is prescribed for such bonds in §§ 25.3 and 25.4 of this chapter.

(d) The collector of customs shall give written notice to the importer of any lack of compliance with the Fur Products Labeling Act in respect of an importation of fur products, and pursuant to § 8.26 of this chapter shall demand the immediate return of the involved products to customs custody, unless the lack of compliance is forthwith corrected.

(e) If the products covered by a notice and demand given pursuant to paragraph (d) of this section are not promptly returned to customs custody and the collector is not fully satisfied that they have been brought into compliance with the Fur Products Labeling Act, appropriate action shall be taken to effect the collection of liquidated damages in an amount equal to the entered value of the merchandise not redelivered, plus the estimated duty thereon as determined at the time of entry, unless the owner or consignee shall file with the appropriate customs officer an application for cancelation of the liability incurred under the bond upon the payment as liquidated damages of a lesser amount than the full amount of the liquidated damages incurred, or upon the basis of such other terms and conditions as the Secretary of the Treasury may deem sufficient. The application shall contain a full statement of the reasons for the requested cancelation and shall be in duplicate.

(f) If any fraudulent violation of the act with respect to imported articles comes to the attention of a collector of customs, the involved merchandise shall be placed under seizure, or a demand shall be made for the redelivery of the merchandise if it has been released from customs custody, and the case shall be reported to the Federal Trade Commission, Washington 25, D. C.

(Sec. 6, 65 Stat. 178; 15 U.S.C. 69d)

§ 11.12b Labeling textile fiber products.

(a) Textile fiber products imported into the United States shall be labeled or marked in accordance with the Textile Fiber Products Identification Act (15 U.S.C. 70–70k) and the rules and regulations promulgated thereunder by the Federal Trade Commission (16 CFR Part 303) unless exempt from marking or labeling under section 12 of the Act (15 U.S.C. 70j). An invoice or other paper, containing the specified information may be used in lieu of a label where the textile product is not in the form intended for sale, delivery to, or for use by the ultimate consumer. Rule 31 of the Federal Trade Commission (16 CFR 303.31).

(b) If imported fiber products are not correctly labeled and the collector is satisfied that the error or omission involved no fraud or willful neglect, the importer shall be afforded a reaosnable opportunity to label the merchandise under customs supervision to conform with the requirements of such Act and the rules and regulations of the Federal Trade Commission. The compensation and ex-

penses of customs officers and employees assigned to supervise the labeling shall be reimbursed to the Government and shall be assessed in the same manner as in the case of marking of country of origin, § 11.8(m).

(c) Packages of fiber products subject to the provisions of this section which are not designated for examination may be released pending examination of the designated packages, but only if there shall have been filed in connection with the entry the usual customs single entry or term bond in such amount as is prescribed for such bonds in § 25.4 of this chapter.

(d) The collector of customs shall give written notice to the importer of any lack of compliance with the Fiber Products Identification Act in respect of an importation of fiber products, and pursuant to § 8.26 of this chapter shall demand the immediate return of the involved products to customs custody, unless the lack of compliance is forthwith corrected.

(e) If the products covered by a notice and demand given pursuant to the preceding paragraph are not promptly returned to customs custody and the collector is not fully satisfied that they have been brought into compliance with the Fiber Products Identification Act, appropriate action shall be taken to effect the collection of liquidated damages in an amount equal to the entered value of the merchandise not redelivered, plus the estimated duty thereon as determined at the time of entry, unless the owner or consignee shall file with the appropriate customs officer an application for cancellation of the liability incurred under the bond upon the payment as liquidated damages of a lesser amount than the full amount of the liquidated damages incurred, or upon the basis of such other terms and conditions as the Secretary of the Treasury may deem sufficient. The application shall contain a full statement of the reasons for the requested cancellation and shall be in duplicate.

(f) If any willful or flagrant violation of the Act with respect to the importation of articles comes to the attention of a collector of customs, the involved merchandise shall be placed under seizure, or a demand shall be made for the redelivery of the merchandise if it has been released from customs custody, and the case shall be reported to the Federal Trade Commission, Washington 25, D.C.

(Sec. 501, 65 Stat. 290, secs. 2–12, 14, 72 Stat. 1717; 5 U.S.C. 140, 15 U.S.C. 70–70k)

§ 11.13 False designations of origin and false descriptions; false marking of articles of gold or silver.

(a) Articles which bear, or the containers of which bear, false designations of origin, or false descriptions or representations, including words or other symbols tending falsely to describe or represent the articles, are prohibited importation and shall be detained.[14]

[14] "It shall be unlawful for any person, firm, corporation, or association, being a manufacturer of or wholesale or retail dealer in gold or silver jewelry or gold ware, silver goods or silverware, * * * to import or export or cause to be imported into or exported from the United States for the purpose of selling or disposing of the same, * * * any article of merchandise manufactured after June 13, 1907, and made in whole or in part of gold or silver, or any alloy of either of said metals, and having stamped, branded, engraved, or printed thereon, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which said article is incased or inclosed, any mark or word indicating or designed or intended to indicate that the gold or silver or alloy of either of said metals in such article is of a greater degree of fineness than the actual fineness or quality of such gold, silver, or alloy, according to the standards and subject to the qualifications set forth in sections 295 and 296." (15 U. S. C. 294; see also 15 U. S. C. 295–298)

"* * * no article of imported merchandise which * * * shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any customhouse of the United States; * * *." (15 U. S. C. 1124)

"(a) Any person who shall affix, apply, or annex, or use in connection with any goods or services, or any container or containers for goods, a false designation of origin, or any false description or representation, including words or other symbols tending falsely to describe or represent the same, and shall cause such goods or services to enter into commerce, and any person who shall with knowledge of the falsity of such designation of origin or description or representation cause or procure the same to be transported or used in commerce or deliver the same to any carrier to be transported or used, shall be liable to a civil action by any person doing business in the locality falsely indicated as that of origin or in the region in which said locality is situated, or by any person who believes that he is or is likely to be damaged by the use of any such false description or representation.

"(b) Any goods marked or labeled in contravention of the provisions of this section shall not be imported into the United States or admitted to entry at any customhouse of the United States. The owner, importer, or consignee of goods refused entry at any customhouse under this section may have any recourse by protest or appeal that is given under the customs revenue laws or may have the remedy given by this Act in cases involving goods refused entry or seized." (15 U. S. C. 1125)

The laws of the United States relating to patents, trade-marks, and copyrights have been extended to the Virgin Islands. (See 48 U.S.C. 1405q.)

(b) Articles made in whole or in part of gold or silver or alloys thereof imported for sale by manufacturers or dealers which are marked or labeled in a manner indicating a greater degree of fineness than the actual fineness of the gold or silver or alloys thereof, and any plated or filled articles so imported which are marked or labeled to indicate the fineness of the gold or silver and are not also marked or labeled to indicate the plated or filled condition or are marked or labeled with the word "sterling" or the word "coin", are prohibited importation and shall be detained, and the facts shall be reported to the United States attorney.

(c) Whenever any articles are detained in accordance with the foregoing provisions of this section, and the case of any articles detained under paragraph (b) of this section the United States attorney has indicated that he does not intend to prosecute, the articles shall be seized and forfeited in the usual manner, except that, upon the filing of a petition therefor by the importer prior to final disposition of the articles, the collector may release the articles upon the condition that the prohibited marking be removed or obliterated or that the articles and containers be properly marked to indicate their origin, contents, or condition, or may permit the articles to be exported or destroyed under customs supervision, and without expense to the Government.

(d) Articles forfeited for violation of section 294, 1124, or 1125, title 15 and section 545, title 18, U. S. Code, may be disposed of in accordance with the procedure applicable to other customs forfeitures, but may not be released from customs custody except upon the removal by and at the expense of the party in interest of the prohibited marking by reason of which the articles were seized.

(Secs 1–5, 34 Stat. 260–262, secs. 42, 48, 60 Stat. 440, 441, sec. 1, 62 Stat. 716, sec. 618, 46 Stat. 757; 15 U. S. C. 294–298, 1124, 1125, 18 U.S.C. 545, 19 U.S.C. 1618)

Trade-Marks and Trade Names

§ 11.14 Trade-marks and trade names; prohibition of importation.

(a) The importation of merchandise of foreign or domestic manufacture is prohibited if such merchandise bears a mark or name which copies or simulates a trade-mark or trade name recorded in the Treasury Department under the Trade-Mark Act of February 20, 1905, or the Trade-Mark Act of July 5, 1946, unless such merchandise is imported by or for the account of, or with the written consent of, the owner of the protected trade-mark or trade name.[15] The prohibition does not apply to articles to which a copying or simulating mark has

[15] "(a) It shall be unlawful to import into the United States any merchandise of foreign manufacture if such merchandise, or the label, sign, print, package, wrapper, or receptacle, bears a trade mark owned by a citizen of, or by a corporation or association created or organized within, the United States, and registered in the Patent Office by a person domiciled in the United States, under the provisions of sections 81–109 of Title 15, and if a copy of the certificate of registration of such trade mark is filed with the Secretary of the Treasury, in the manner provided in section 106 of said Title 15, unless written consent of the owner of such trade mark is produced at the time of making entry.

"(b) Any such merchandise imported into the United States in violation of the provisions of this section shall be subject to seizure and forfeiture for violation of the customs laws.

"(c) Any person dealing in any such merchandise may be enjoined from dealing therein within the United States or may be required to export or destroy such merchandise or to remove or obliterate such trade mark and shall be liable for the same damages and profits provided for wrongful use of a trade mark, under the provisions of sections 81–109 of Title 15." (19 U.S.C. 1526.)

been released from customs custody, and same to any carrier to be transported or 48 U.S.C. 1405q.) 31–109 of Title 15." (19 U.S.C. 1526.)

been applied, if such mark is removed or completely obliterated before importation. See § 11.17(b).[18]

(b) A mark or name (including a mark or name which is a genuine trade-mark or trade name in a foreign country) on an article of foreign manufacture identical with a trade-mark or trade name recorded under the trade-mark laws mentioned in paragraph (a) of this section, as well as a mark or name on an article of foreign or domestic manufacture counterfeiting such recorded trade-mark or trade name, or so resembling such recorded trade-mark or trade name as to be likely to cause confusion or mistake in the minds of the public or to deceive purchasers, shall be deemed to copy or simulate such name recorded under the above-mentioned trade-mark laws, as well as a mark or name on an article of foreign or domestic manufacture counterfeiting such recorded trade-mark or trade name, or so resembling such recorded trade-mark or trade name as to be likely to cause confusion or mistake in the minds of the public or to deceive purchasers, shall be deemed to copy or simulate such protected trade-mark or trade name. However, merchandise manufactured or sold in a foreign country under a trade-mark or trade name, which trade-mark is registered and recorded, or which trade name is recorded under the above-mentioned trade-mark laws, shall not be deemed to copy or simulate such United States trade-mark or trade name if such foreign trade-mark or trade name and such United States trade-mark or trade name are owned by the same person, partnership, association, or corporation.

(Sec. 42, 60 Stat. 440, sec. 526, 46 Stat. 741; 15 U.S.C. 1124, 19 U.S.C. 1526)

§ 11.15 Trade-marks; recording;[18] change of ownership; renewal.

(a) To record a trade-mark with the Treasury Department, an application, which may be in the form of a letter, shall be addressed to the Commissioner of Customs, Washington 25, D.C., stating the name, residence, and citizenship of the owner or owners (if a partnership, the citizenship of each partner; if a corporation or association, the country or State within which it was organized or created), the name of the locality in which the goods are manufactured, and the name and address of each foreign person, partnership, association, or corporation using the trade-mark while acting as the principal or agent of the trade-mark owner. The application shall be accompanied by one certified copy of the original certificate of registration issued by the Commissioner of Patents in accordance with the Trade-Mark Act of February 20, 1905, or section 7 of the Trade-Mark Act of July 5, 1946, to which shall be attached one printed Patent Office facsimile of the statement and drawing covering the trade-mark; such of the documents mentioned in paragraph (b) or (c) of this section as may be required to show the ownership of the applicant, or renewal of the trade-mark; 700 uncertified facsimiles of the statement and drawing covering the trade-mark (which may be reproduced privately from a Patent Office facsimile) for distribution to all collectors of customs and appraisers of merchandise; and the fee of $75 prescribed by § 24.12 of this chapter. Checks or money orders in payment of the fee shall be made payable to the Head, Fiscal Section, Bureau of Customs.

(b) If ownership of a registered trade-mark is claimed by an applicant by virtue of an assignment of such trademark, the certification on the original certificate of registration required by paragraph (a) of this section must show the record title to be in the applicant. There shall be transmitted with the application for recording, in addition to the documents and information specified in paragraph (a) of this section, a statement as to the nature of the assignment, whether such assignment is qualified in any way, and whether or not the mark has been reassigned without recordation of the reassignment.

(c) If the application for recording is presented after the expiration of the period for which the certificate of registration or a renewal thereof was issued, the application shall be accompanied by a certified copy of a certificate of renewal from the United States Patent Office showing that the registration is in force. In order to continue to receive the protection of the trade-mark statutes with respect to imported merchandise, such a certified copy of each subsequent certificate of renewal shall be promptly filed with the Treasury Department.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 11.16 Trade names; recording.

To record the trade name (not a trade-mark) of a manufacturer or trader, an application, which may be in the form of a letter, shall be addressed to the Commissioner of Customs, Washington 25, D. C., stating the trade name, the name, residence, and citizenship of the owner or owners (if a partnership, the citizenship of each partner; if a corporation or association, the country or State within which it was organized or created), a description of the class or kind of merchandise to which the trade name is applied, the name of the locality in which the merchandise is manufactured and the name and address of each foreign person, partnership, association, or corporation using the trade name while acting as the principal or agent of the trade name owner. The application shall be accompanied by supporting evidence in the form of certificates by the owner or owners and by at least two other persons not associated with or related to the applicant but having actual knowledge of the facts showing that the applicant has used the trade name in connection with the class or kind of merchandise described in the application for a specified period of time, that the trade name is not identical with, or confusingly similar to, any other trade name or registered trade-mark used in connection with merchandise of such class or kind, and that the applicant has the sole and exclusive right to the use of such trade name in connection with merchandise of such class or kind, and by the fee of $75 prescribed by § 24.12 of this chapter. Checks or money orders in payment of the fee shall be made payable to the Head, Fiscal Section, Bureau of Customs.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 11.17 Detention; seizure; exportation; release.

(a) Merchandise which bears a mark or name copying or simulating a trade-mark or trade name entitled to the protection of section 27, Trade-Mark Act of February 20, 1905, or section 42, Trade-Mark Act of July 5, 1946,[19] if not imported by or for the account of, or with the appropriate written consent of, the owner of the United States trade-mark or trade name shall be detained for a period of 30 days from the date of notice to the importer that the merchandise is prohibited importation to permit the importer to secure the written consent of the owner of the trade-mark or trade name.

(b) Whenever merchandise is detained in accordance with paragraph (a) of this section and the importer indicates that he will not attempt to se-

---

[18] Registration on the supplemental register or under the act of March 19, 1920, shall not be filed in the Department of the Treasury or be used to stop importations." (Sec. 28, 60 Stat. 436; 15 U.S.C. 1096)

[19] "That no article of imported merchandise which shall copy or simulate the name of any domestic manufacture, or manufacturer, or trader, or of any manufacturer or trader located in any foreign country which, by treaty, convention, or law affords similar privileges to citizens of the United States, or which shall copy or simulate a trade-mark registered in accordance with the provisions of this act or shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any customhouse of the United States; and, in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer or trader, and any foreign manufacturer or trader, who is entitled under the provisions of a treaty, convention, declaration, or agreement between the United States and any foreign country to the advantages afforded by law to citizens of the United States in respect to trade-marks and commercial names, may require his name and residence, and the name of the locality in which his goods are manufactured, and a copy of the certificate of registration of his trade-mark, issued in accordance with the provisions of this act, to be recorded in books which shall be kept for this purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the Department facsimiles of his name, the name of the locality in which his goods are manufactured, or of his registered trade-mark, and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer or customs." (Sec. 42, Public No. 489, 79th Cong. See similar provision in Trade-Mark Act of February 20, 1905, sec. 27; 15 U. S. C. 106.)

The laws of the United States relating to patents, trade-marks, and copyrights have been extended to the Virgin Islands. (See 48 U. S. C. 1405q.)

cure the written consent of the owner of the trade-mark or trade name to the importation of the merchandise, or such consent is not presented to the collector prior to the expiration of the 30-day period, the merchandise shall be seized and forfeited in the usual manner, except that, when a petition therefore is made by the importer prior to final disposition of the merchandise, the collector may release the merchandise upon the condition that the name, mark, or trade-mark be removed or obliterated prior to the release, or may permit the merchandise to be exported or destroyed under customs supervision and without expense to the Government. In the case of any such merchandise carried as baggage or otherwise by a person arriving in the United States, such petition may be made orally at the time of the customs examination and the collector may thereupon dispose of the merchandise under the above-mentioned conditions without a formal notice of detention or seizure.

(c) Merchandise forfeited for violation of any trade-mark law may be disposed of in accordance with the procedure applicable to other customs forfeitures, but only after removal or obliteration of the name, mark, or trade-mark by reason of which the goods were seized.

(d) If the violation is not discovered until after entry and deposit of estimated duty, the entry shall be endorsed with an appropriate notation, the duty refunded as an erroneous collection, and the merchandise disposed of in accordance with the provisions of paragraphs (b) and (c) of this section.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

COPYRIGHTS

§ 11.18 False notice of copyright.

(a) The importation of books, periodicals, newspapers, music, moving-picture films, and other articles which bear a false notice of copyright—that is, words indicating that they have been copyrighted in the United States when they have not in fact been so copyrighted—is prohibited.[20]

(b) All articles bearing a false notice of copyright (except when imported in the mails) shall be seized and forfeited. Such articles imported in the mails shall be returned to the postmaster for return to the sender as nondeliverable.

(Sec. 1, 61 Stat. 652, as amended; 17 U. S. C. 106–109)

§ 11.19 Recordation of copyrighted works.

(a) A person whose copyright claim has been registered in accordance with the provisions of the Copyright Act of July 30, 1947, as amended (17 U.S.C. 1–32),[21] or a person who claims copyright protection under section 9 (c) of that act, as amended (17 U. S. C. 9 (c)),[21a] by virtue of the Universal Copyright Convention, and has not registered a copyright claim, may secure to himself customs protection against importation of piratical copies of the copyrighted work in the following manner:

(1) In the case of books and other printed works which may be readily identified by title and name of the author, the copyright proprietor, or any person claiming actual or potential injury by reason of actual or contemplated importations of copies of such works, shall file in the Office of the Director, Customs Information Exchange, 201 Varick Street, New York 14, New York, a certificate of registration issued by the Copyright Office or, if copyright is claimed under section 9 (c) by virtue of the Universal Copyright Convention and no registration has been made, a statement setting forth the citizenship and domicile of the author at the time of publication, the date and place of publication, and a description of the work, including its title and the name of the author. There shall also be filed an application in duplicate for recordation of the copyrighted work, accompanied by 1,000 notices in the form indicated below, printed in 11-point Roman type on plain white cards of medium weight, size 3 x 5 inches, for distribution to customs field officers throughout the United States, including Puerto Rico, the Virgin Islands, Hawaii, and Alaska, and the fee of $75 prescribed by § 24.12 of this chapter. Checks or money orders in payment of the fee shall be made payable to the Collector of Customs, New York, New York.

(Title of book or other printed work, and foreign title if different)

(Author)

(Citizenship of author at the time of publication)

(Domicile of Author at time of publication)

(Date of publication) (Place of publication)

Registration

Copyright claim registered ☐ No. ---------

Copyright claimed under 17 U. S. C. 9 (c) and no claim registered ☐

(Name and address of copyright proprietor)

(2) In the case of copyrighted works not readily identifiable by title and author, application for recordation in the form of a letter shall be made to the Commissioner of Customs, Washington 25, D. C. Such application shall be accompanied by a certificate of registration issued by the Copyright Office, or, if copyright is claimed under section 9 (c) by virtue of the Universal Copyright Convention and no registration has been made, a statement setting forth the citizenship and domicile of the author at the time of publication, the date and place of publication, and a description of the work. There shall also be filed 700 photographic or other likenesses of the copyrighted work reproduced on paper 8 x 10½ inches in size, for distribution to all collectors of customs and appraisers of merchandise, accompanied by the fee of $75 prescribed by § 24.12 of this chapter. Checks or money orders in payment of the fee shall be made payable to the Head, Fiscal Section, Bureau of Customs.

(b) The following countries are parties to the Universal Copyright Convention:

Andorra, Argentina, Austria, Brazil, Cambodia, Chile, Costa Rica, Cuba, Czechoslovakia, Ecuador, France, German Federal Republic, Haiti, Holy See, Iceland, India, Ireland, Israel, Italy, Japan, Laos, Lebanon, Liberia, Liechtenstein, Luxembourg, Mexico, Monaco, Pakistan, Portugal, Spain, Switzerland, United Kingdom, and United States of

(c) If the collector is not satisfied that

---

[20] "The importation into the United States of any article bearing a false notice of copyright when there is no existing copyright thereon in the United States, or of any piratical copies of any work copyrighted in the United States, is prohibited." (17 U. S. C. 106)

The laws of the United States relating to patents, trade-marks, and copyrights have been extended to the Virgin Islands. (See 48 U. S. C. 1405q.)

[21] "The Secretary of the Treasury and the Postmaster General are hereby empowered and required to make and enforce individually or jointly such rules and regulations as shall prevent the importation into the United States of articles prohibited importation by this title, and may require, as conditions precedent to exclusion of any work in which copyright is claimed, the copyright proprietor or any person claiming actual or potential injury by reason of actual or contemplated importations of copies of such work to file with the Post Office Department or the Treasury Department a certificate of the Register of Copyrights that the provisions of section 13 of this title have been fully complied with, and to give notice of such compliance to postmasters or to customs officers at the ports of entry in the United States in such form and accompanied by such exhibits as may be deemed necessary for the practical and efficient administration and enforcement of the provisions of sections 106 and 107 of this title." (17 U. S. C. 109)

[21a] (c) When the Universal Copyright Convention, signed at Geneva on September 6, 1952, shall be in force between the United States of America and the foreign state or nation of which such author is a citizen or subject, or in which the work was first published. Any work to which copyright is extended pursuant to this subsection shall be exempt from the following provisions of this title: (1) The requirement in section 1 (c) that a foreign state or nation must grant to United States citizens mechanical reproduction rights similar to those specified therein; (2) the obligatory deposit requirements of the first sentence of section 13; (3) the provisions of sections 14, 16, 17, and 13; (4) the import prohibitions of section 107, to the extent that they are related to the manufacturing requirements of section 16; and (5) the requirements of sections 19 and 20: *Provided, however,* That such exemptions shall apply only if from the time of first publication all the copies of the work published with the authority of the author or other copyright proprietor shall bear the symbol © accompanied by the name of the copyright proprietor and the year of first publication placed in such manner and location as to give reasonable notice of claim of copyright.

Upon the coming into force of the Universal Copyright Convention in a foreign state or nation as hereinbefore provided, every book or periodical of a citizen or subject thereof in which ad interim copyright was subsisting on the effective date of said coming into force shall have copyright for twenty-eight years from the date of first publication abroad without the necessity of complying with the further formalities specified in section 23 of this title.

The provisions of this subsection shall not be extended to works of an author who is a citizen of, or domiciled in the United States of America regardless of place of first publication, or to works first published in the United States. (17 U. S. C. 9 (c))

Monaco, Pakistan, Portugal, Spain, Switzerland, United Kingdom, and United States of America.

(Secs. 9, 109, 61 Stat. 655, as amended, 664; 17 U. S. C. 9, 109)

§ 11.20 Piratical copies.

(a) Actual copies or substantial reproductions of legally copyrighted works produced and imported in contravention of the rights of the copyright proprietor shall be considered "piratical copies" within the meaning of the copyright act.

(b) Collectors shall not permit delivery of imported articles if representations are made that they are piratical copies and such representations are not denied by the importers, or if the collection in the event that it is held by the tor is satisfied that they do in fact constitute piratical copies.[22]

(c) If the collector is not satisfied that an imported article is a piratical copy, and the importer files a statement denying that it is in fact a piratical copy and alleging that the detention of the article will result in a material depreciation of its value or loss or damage to him, the article shall be admitted to entry, unless a written demand for its exclusion is filed by the copyright proprietor or other party in interest setting forth that the imported article is a piratical copy of an article legally copyrighted in the United States, and unless there is also filed with the collector a good and sufficient bond conditioned to hold the importer or owner of such article harmless from any loss or damage resulting from its detention in the event that it is held by the Bureau not to be prohibited from importation under section 106 of the copyright act.

(d) Upon the filing of such demand and bond, the collector shall detain the article and shall fix a time at which the parties in interest may submit evidence to substantiate their respective claims, which evidence shall be reduced to writing at the expense of the parties in interest. The burden of proof that any article is in fact a piratical copy shall be upon the party making such claim.

(e) If the article is held by the Bureau to be a piratical copy, its seizure and forfeiture will be directed in accordance with section 108 of the copyright act,[23] and the bond will be returned to the copyright proprietor; but if the article is not so held, the collector will be directed to release it and transmit the bond to the importer.

(Sec. 1, 61 Stat. 652; 17 U.S.C. 109)

§ 11.21 United States manufacturing requirements; copies not produced in accordance with 17 U.S.C. 16.[24]

(a) Copies of books or periodicals for which manufacture in the United States is required by 17 U.S.C. 16 may not be imported during the existence of the United States copyright, unless importation is permitted under 17 U. S. C. 107,[25] or unless protection was secured under 17 U. S. C. 9 (c) by virtue of the Universal Copyright Convention or an ad interim copyright was extended to the full term by the provisions of 17 U. S. C. 9 (c).

(b) Up to 1500 copies of a book or periodical covered by ad interim copyright, when imported pursuant to the quantitative exception in 17 U. S. C. 16, may be released upon compliance with usual customs requirements if there is presented in connection with the entry an "Import Statement" issued by the Register of Copyrights on Copyright Office Form C–100, and such copies are otherwise admissible. The reverse side of the statement shall be completely filled in by the customs officer concerned and mailed at once to the Register of Copyrights as directed in the form.

(c) When an ad interim copyright is extended to a full term copyright, as provided for in 17 U. S. C. 23, notice of such extension, together with the full-term registration number and the date thereof, shall be communicated by the copyright proprietor to the Commissioner of Customs, Washington, D.C., 20226, within 30 days after such date.

(Secs. 16, 109, 61 Stat. 657, as amended, 664; 17 U.S.C. 16, 109)

---

[22] "During the existence of the American copyright in any book the importation into the United States of any piractical copies thereof or any copies thereof (although authorized by the author or proprietor) which have not been produced in accordance with the manufacturing provisions specified in section 16 of this title, or any plates of the same not made from type set within the limits of the United States, or any copies thereof produced by lithographic or photoengraving process not performed within the limits of the United States, in accordance with the provisions of section 16 is prohibited: *Provided, however,* That, except as regards piratical copies, such prohibition shall not apply:

"(a) To works in raised characters for the use of the blind;

"(b) To a foreign newspaper or magazine, although containing matter copyrighted in the United States printed or reprinted by authority of the copyright proprietor, unless such newspaper or magazine contains also copyright matter printed or reprinted without such authorization.

"(c) To the authorized edition of a book in a foreign language or languages of which only a translation into English has been copyrighted in this country.

"(d) To any book published abroad with the authorization of the author or copyright proprietor when imported under the circumstances stated in one of the four subdivisions following, that is to say:

"First. When imported, not more than one copy at one time, for individual use and not for sale; but such privilege of importation shall not extend to a foreign reprint of a book by an American author copyrighted in the United States.

"Second. When imported by the authority or for the use of the United States.

"Third. When imported, for use and not for sale, not more than one copy of any such book in any one invoice, in good faith by or for any society or institution incorporated for educational, literary, philosophical, scientific, or religious purposes or for the encouragement of the fine arts, or for any college, academy, school, or seminary of learning, or for any State, school, college, university, or free public library in the United States.

"Fourth. When such books form parts of libraries or collections purchased en bloc for the use of societies, institutions, or libraries designated in the foregoing paragraph, or form parts of the libraries or personal baggage belonging to persons or families arriving from foreign countries and are not intended for sale: *Provided,* That copies imported as above may not lawfully be used in any way to violate the rights of the proprietor of the American copyright or annual or limit the copyright protection secured by this title, and such unlawful use shall be deemed an infringement of copyright." (17 U.S.C. 107)

[23] "Any and all articles prohibited importation by this title which are brought into the United States from any foreign country (except in the mails) shall be seized and forfeited by like proceedings as those provided by law for the seizure and condemnation of property imported into the United States in violation of the customs revenue laws. Such articles when forfeited shall be destroyed in such manner as the Secretary of the Treasury or the court, as the case may be, shall direct: *Provided, however,* That all copies of authorized editions of copyright books imported in the mails or otherwise in violation of the provisions of this title may be exported and returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury, in a written application, that such importation does not involve willful negligence or fraud." (17 U. S. C. 108)

[24] *Mechanical work to be done in United States.* Of the printed book or periodical specified in section 5, subsections (a) and (b), of this title, except the original text of a book or periodical of foreign origin in a language or languages other than English, the text of all copies accorded protection under this title, except as below provided, shall be printed from type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, or photoengraving process, then by a process wholly performed within the limits of the United States, and the printing of the text and binding of the said book shall be performed within the limits of the United States; which requirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process, or photoengraving process, and also to separate lithographs or photoengravings, except where in either case the subjects represented are located in a foreign country and illustrate a scientific work or reproduce a work of art: *Provided, however,* That said requirements shall not apply to works in raised characters for the use of the blind, or to books or periodicals of foreign origin in a language or languages other than English, or to works printed or produced in the United States by any other process than those above specified in this section, or to copies of books or periodicals, first published abroad in the English language, imported into the United States within five years after first publication in a foreign state or nation up to the number of fifteen hundred copies of each such book or periodical if said copies shall contain notice of copyright in accordance with sections 10, 19, and 20 of this title and if ad interim copyright in said work shall have been obtained pursuant to section 22 of this title prior to the importation into the United States of any copy except those permitted by the provisions of section 107 of this title: *Provided further,* That the provisions of this section shall not affect the right of importation under the provisions of section 107 of this title. (17 U. S. C. 16)

PART 12—SPECIAL CLASSES OF MERCHANDISE

NOTE: References in this part to Title 50 are references which existed prior to the revision and reorganization of Title 50, as of January 1, 1961. For reorganization of material in Title 50, see the table showing the relationship between the old and new part numbers, 25 F.R. 8397, Sept. 1, 1960.

FOODS, DRUGS, AND COSMETICS, ECONOMIC POISONS, AND CAUSTIC OR CORROSIVE SUBSTANCES

Sec.
12.1 Cooperation with certain agencies; joint regulations.
12.2 Shippers' declarations.
12.3 Release under bond.
12.4 Exportation.
12.5 Shipment to other ports.
12.6 Suspension of liquidation.

MILK AND CREAM

12.7 Permits required for importation.

MEAT AND MEAT-FOOD PRODUCTS

12.8 Inspection; bond; release.
12.9 Release for final delivery to consignee.

PLANTS AND PLANT PRODUCTS

12.10 Regulations and orders of the Department of Agriculture.
12.11 Requirements for entry and release.
12.12 Release under bond.
12.13 Unclaimed shipments.
12.14 Detention.
12.15 Disposition; refund of duty.

AGRICULTURAL AND VEGETABLE SEEDS

12.16 Joint regulations of the Secretary of the Treasury and the Secretary of Agriculture.

VIRUSES, SERUMS, AND TOXINS FOR TREATMENT OF DOMESTIC ANIMALS

12.17 Importation restricted.
12.18 Labels.
12.19 Detention; samples.
12.20 Disposition.

VIRUSES, SERUMS, TOXINS, ANTITOXINS, AND ANALOGOUS PRODUCTS FOR THE TREATMENT OF MAN

12.21 Licensed establishments.
12.22 Labels; samples.
12.23 Detention; examination; disposition.

DOMESTIC ANIMALS, ANIMAL PRODUCTS, AND ANIMAL FEEDING MATERIALS

12.24 Regulations of the Department of Agriculture.

WILD ANIMALS, BIRDS, AND INSECTS

12.26 Importations of wild animals or birds; certain species prohibited; permits required.
12.27 Importation or exportation of wild animals or birds, or the dead bodies thereof illegally captured or killed, etc.
12.28 Importation of wild mammals and birds in violation of foreign law.
12.29 Plumage and eggs of wild birds.
12.30 Whaling.
12.31 Injurious insects.
12.32 Honeybees.

TEA

12.33 Importation of tea; entry; examination for customs purposes.

WHITE PHOSPHORUS MATCHES

12.34 Importation prohibited; certificate of inspection; importer's declaration.
12.35 Exportation.

NARCOTIC DRUGS

12.36 Regulations of Bureau of Narcotics.

LIQUORS

12.37 Restricted importations.
12.38 Labeling requirements; packages.

UNFAIR COMPETITION

12.39 Exclusion from entry; entry under bond.

IMMORAL ARTICLES

12.40 Seizure; disposition of seized articles; reports to United States attorney.
12.41 Prohibited films.

MERCHANDISE PRODUCED BY CONVICT, FORCED, OR INDENTURED LABOR

12.42 Findings of Commissioner of Customs.
12.43 Proof of admissibility.
12.44 Disposition.
12.45 Transportation and marketing of prison-labor products.

COUNTERFEIT COINS, OBLIGATIONS, AND OTHER SECURITIES; ILLUSTRATIONS OR REPRODUCTIONS OF COINS OR STAMPS

12.48 Importation prohibited; exceptions to prohibition of importation; procedure.

MERCHANDISE SUBJECT TO QUOTA PROVISIONS

12.49 Proclamations establishing import quotas.
12.50 Quota priority.
12.51 Mail importations of merchandise for which an absolute quota has been established.

FUR-SEAL OR SEA-OTTER SKINS

12.60 Importation prohibited.
12.61 Fur-seal or sea-otter skins permitted entry.
12.62 Enforcement; duties of customs officers.
12.63 Seal-skin or sea-otter-skin waste.

AUTHORITY: §§ 12.1 to 12.63 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

CROSS REFERENCE: For joint regulations promulgated by the Secretary of the Treasury and the Secretary of Agriculture, with respect to importations of economic poisons and devices under the regulations for the enforcement of section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act, see 7 CFR Part 362.

FOODS, DRUGS, AND COSMETICS, ECONOMIC POISONS, AND CAUSTIC OR CORROSIVE SUBSTANCES

§ 12.1 Cooperation with certain agencies; joint regulations.

(a) The importation into the United States of food, drugs, devices, and cosmetics, as defined in section 201 (f), (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act,[1] is governed by section 801 of said act and regulations issued under section 701(b) of said act.[2]

(b) The importation of insecticides and certain other economic poisons and devices is governed by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act of June 25, 1947 (7 U. S. C. Sup., 135h) and regulations issued thereunder.[3]

(c) The importation of dangerous caustic or corrosive substances, as defined in section 2 (a) of the Federal Caustic Poison Act,[4] is governed by sec-

---

[1] "(f) The term 'food' means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

"(g) The term 'drug' means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

"(h) The term 'device' (except when used in paragraph (n) of this section and in sections 331 (i), 343 (f), 352 (c), and 362 (c)) means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

"(i) The term 'cosmetic' means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap." (21 U. S. C. 321 (f), (g), (h), and (i))

[2] See Appendix XI, Customs Regulations of 1943.

[3] See Appendix XI, Customs Regulations of 1943. The classes of articles covered by the act are defined in section 2 of the act (7 U. S. C. 135).

[4] "The term 'dangerous caustic or corrosive substance' means:

"(1) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 per centum or more;

"(2) Sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of 10 per centum or more;

"(3) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of 5 per centum or more;

"(4) Carbolic (C_6H_5OH), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of 5 per centum or more;

"(5) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_2O_4$) in a concentration of 10 per centum or more;

"(6) Any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 per centum or more;

"(7) Acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_3O_2$) in a concentration of 20 per centum or more;

"(8) Hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime;

"(9) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 per centum or more;

"(10) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 per centum or more;

"(11) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of 5 per centum or more; and

"(12) Ammonia water and any preparation containing free or chemically uncom-

tion 5 of said act[5] and by regulations prescribed by the Secretary of Health, Education, and Welfare (21 CFR 285.20–285.32).

(d) Customs officers and employees shall perform such functions as are necessary or proper on their part to carry out the regulations referred to in paragraphs (a), (b), and (c) of this section.

§ 12.2 Shippers' declarations.

The regulations referred to in § 12.1 (b) require that each invoice of economic poisons and devices be accompanied by a prescribed declaration of the shipper.

§ 12.3 Release under bond.

No food, drug, device, cosmetic, economic poison or device, or dangerous caustic or corrosive substance shall be released to the consignee prior to the report of examination by the Department of Health, Education, and Welfare or the Department of Agriculture, as the case may be or a determination by the representatives of such agency or department that such examination is not necessary, except upon the giving of a bond on customs Form 7551, 7553, or other appropriate form containing a condition for the return to customs custody of the merchandise or any part thereof upon demand of the collector of customs at any time.

§ 12.4 Exportation.

Exportation of merchandise refused admission into the United States under the Federal Food, Drug, and Cosmetic Act, the Federal Insecticide, Fungicide, and Rodenticide Act, or the Federal Caustic Poison Act shall be under customs supervision in accordance with the regulations set forth in §§ 18.25 and 18.26 of this chapter.

§ 12.5 Shipment to other ports.

When imported merchandise subject to the provisions of the Federal Food, Drug, and Cosmetic Act, the Federal Insecticide, Fungicide and Rodenticide Act, or the Federal Caustic Poison Act is shipped to another port for reconditioning or exportation, such shipment shall be under a customs carrier's manifest, customs Form 7512, in the same manner as shipments in bond.

§ 12.6 Suspension of liquidation.

(a) The liquidation of each entry covering foods, drugs, devices, cosmetics, economic poisons or devices, or dangerous caustic or corrosive substances shall be suspended until it is determined whether admission of the merchandise into the United States is permitted under the law.

(b) In any case where the admission of such merchandise into the United States is refused and the merchandise is exported or destroyed under proper supervision, the merchandise is exempt from duty and any duties collected thereon shall be refunded. See §§ 8.49 (b) and 15.5 of this chapter.

(Sec. 558, 46 Stat. 744, as amended; 19 U. S. C. 1558)

MILK AND CREAM

§ 12.7 Permits required for importation.

(a) Under the act of February 15, 1927 (44 Stat. 1101; 21 U. S. C. 141–149), commonly known as the Federal Import Milk Act, the importation into the United States of milk and cream is prohibited unless the person by whom such milk or cream is shipped or transported into the United States holds a valid permit from the Department of Health, Education, and Welfare. Such permits become invalid at the end of one year unless applications for renewal are filed prior to the date of expiration.

(b) The regulations of the Department of Health, Education, and Welfare under the said act[6] require that each container of milk or cream shipped or transported into the United States by a permittee shall have firmly attached thereto a tag showing in clear and legible type the product (raw milk, pasteurized milk, raw cream, or pasteurized cream) the permit number and the name and address of the shipper; except that in case of unit shipments consisting of milk only or cream only under one permit number, each container need not be so marked if the vehicle of transportation is sealed and tagged with the above-mentioned tag. In such case the tag is required to show, in addition to the other required information, the number of containers and the contents of each. Customs officers shall not permit the importation of any milk or cream that is not tagged in accordance with such regulations.

MEAT AND MEAT-FOOD PRODUCTS

§ 12.8 Inspection; bond; release.

(a) All imported meat, meat-food products,[7] horse meat and horse meat-food products offered for entry into the United States are subject to the regulations prescribed by the Secretary of Agriculture under section 306, Tariff Act of 1930.[8] Such meat, meat-food products, horse meat and horse meat-food products shall not be released from customs custody prior to inspection by an inspector of the Meat Inspection Division, Agricultural Research Service, except when authority is given by such inspector for inspection at the importer's premises or other place not under customs supervision. In such case a bond for the return to customs custody of the merchandise shall be given by the consignee or agent

---

bined ammonia (NH_3), including ammonium hydroxide and 'hartshorn,' in a concentration of 5 per centum or more." (15 U. S. C. 402 (a))

[5] "(a) Whenever in the case of any dangerous caustic or corrosive substance being offered for importation the Secretary of Agriculture has reason to believe that such substance is being shipped in interstate or foreign commerce in violation of section 403 of this title, he shall give due notice and opportunity for hearing thereon to the owner or consignee and certify such fact to the Secretary of the Treasury, who shall thereupon (1) refuse admission and delivery to the consignee of such substance, or (2) deliver such substance to the consignee pending examination, hearing, and decision in the matter, on the execution of a penal bond to the amount of the full invoice value of such substance, together with the duty thereon, if any, and to the effect that on refusal to return such substance for any cause to the Secretary of the Treasury when demanded, for the purpose of excluding it from the country or for any other purpose, the consignee shall forfeit the full amount of the bond.

"(b) If, after proceeding in accordance with subdivision (a), the Secretary of Agriculture is satisfied that such substance being offered for importation was shipped in interstate or foreign commerce in violation of any provision of this chapter, he shall certify the fact to the Secretary of the Treasury, who shall thereupon notify the owner or consignee and cause the sale or other disposition of such substance refused admission and delivery or entered under bond, unless it is exported by the owner or consignee or labeled by him so as to conform to the law within three months from the date of such notice, under such regulations as the Secretary of the Treasury may prescribe. All charges for storage, cartage, or labor on any such substance refused admission or delivery or entered upon bond shall be paid by the owner or consignee. In default of such payment such charges shall constitute a lien against any future importations made by such owner or consignee." (15 U. S. C. 405)

[6] See Appendix XXI, Customs Regulations of 1943.

[7] The term "meat and meat-food products," for the purpose of this section, shall include any imported article of food or any imported article which enters or may enter into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of the carcass of any cattle, sheep, swine, or goat, if such portion is all or a considerable and definite portion of the article, except such articles as organotherapeutic substances, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession.

[8] "(a) *Rinderpest and foot-and-mouth disease.* If the Secretary of Agriculture determines that rinderpest or foot-and-mouth disease exists in any foreign country, he shall officially notify the Secretary of the Treasury and give public notice thereof, and thereafter, and until the Secretary of Agriculture gives notice in a similar manner that such disease no longer exists in such foreign country the importation into the United States * * * of fresh, chilled, or frozen beef, veal, mutton, lamb, or pork, from such foreign country, is prohibited.

"(b) *Meats unfit for human food.* No meat of any kind shall be imported into the United States unless such meat is healthful, wholesome, and fit for human food and contains no dye, chemical, preservative, or ingredient which renders such meat unhealthful, unwholesome, or unfit for human food, and unless such meat also complies with the rules and regulations made by the Secretary of Agriculture. All imported meats shall, after entry into the United States in compliance with such rules and regulations, be deemed and treated as domestic meats within the meaning of and subject to the provisions of the Act of June 30, 1906 (Thirty-fourth Statutes at Large, page 674), commonly called the 'Meat Inspection Amendment,' and the Act of June 30, 1906 (Thirty-fourth Statutes at Large, page 768) commonly called the 'Food and Drugs Act,' and acts amendatory of, supplementary to, or in substitution for such Acts.

"(c) *Regulations.* The Secretary of Agriculture is authorized to make rules and regulations to carry out the purposes of this section, and in such rules and regulations the Secretary of Agriculture may prescribe the terms and conditions for the destruction of all cattle, sheep, and other domestic ruminants, and swine, and of all meats, offered for entry and refused admission into the United States, unless such cattle, sheep, domestic ruminants, swine, or meats be exported by the consignee within the time fixed therefor in such rules and regulations." (Tariff Act of 1930, sec. 306; 19 U. S. C. 1306)

See regulations in Appendices XII and XIII, Customs Regulations of 1943.

on customs Form 7551, 7553, or other appropriate form, and the conveyances or packages in which such merchandise is removed to the place of examination shall be sealed or corded and sealed by a customs officer or an inspector of the Meat Inspection Division, Agricultural Research Service, with import-meat seals furnished by the Department of Agriculture unless bearing United States customs seals, or in the case of packages otherwise identified as provided for in this section. When cording is necessary for proper sealing, the cords shall be furnished and affixed by the importer or his agent. Import-meat seals or cords and seals may be broken only by a customs officer or inspector of the Meat Inspection Division, Agricultural Research Service.

In lieu of cording and sealing packages, the carrier or importer may furnish and attach to each package of product a warning notice on bright yellow paper, not less than 5 by 8 inches in size, containing the following legend in black type of a conspicuous size:

(Name of Truck Line or Carrier)

NOTICE

This package of meat or meat product must be delivered intact to an inspector of the Meat Inspection Division, U.S. Department of Agriculture.

WARNING

Failure to comply with these instructions will result in penalty action being taken against the holder of the Customs entry bond.

If the product is found to be acceptable upon inspection the package will be marked "U.S. Inspected and Passed" and this warning notice defaced.

(b) Liquidated damages assessed for breach of bonds taken under this section, if not in excess of $20,000, and if a written application for relief is filed, may be canceled by the collector of customs upon the payment of less than the full amount as he shall deem appropriate, or without the payment of any amount, as may be deemed appropriate, but the collector shall not act under this paragraph unless the officer in charge of the local office of the Meat Inspection Division, Agricultural Research Service, Department of Agriculture, is in full agreement with the proposed action. If there is no local inspector of the Meat Inspection Division, the collector shall not act unless he has obtained the full agreement of the Meat Inspection Division in Washington.

§ 12.9 Release for final delivery to consignee.

No meat, meat-food products, or animal casings shall be released for final delivery to the consignee until the collector of customs is advised by the Department of Agriculture, or its representative, that the merchandise is admissible.

PLANTS AND PLANT PRODUCTS

§ 12.10 Regulations and orders of the Department of Agriculture.

The importation into the United States of plants and plant products is subject to regulations and orders of the Department of Agriculture restricting or prohibiting the importation of such plants and plant products. Customs officers and employees shall perform such functions as are necessary or proper on their part to carry out such regulations and orders of the Department of Agriculture and the provisions of law under which they are made.

(Secs. 1–9, 11, 37 Stat. 315, as amended, 316, 317, 318, as amended, 319, 37 Stat. 854; 7 U.S.C. 151–162)

§ 12.11 Requirements for entry and release.

(a) The importer or his representative shall submit to the collector at the port of first arrival, for each entry of plants or plant products requiring a plant quarantine permit, a notice of arrival for any type of entry except rewarehouse and informal mail entries. Such notice shall be on a form provided for the purpose by the Department of Agriculture. The collector at the port of arrival shall compare the notice of arrival which he receives from the importer or his representative with the shipping documents, certify its agreement therewith, and transmit it, together with any accompanying certificates or other documents pertaining to the sanitary status of the shipment, to the Department of Agriculture. The merchandise may not be moved, stored, or otherwise disposed of until the notice of arrival has been submitted and release for the intended purpose has been authorized by an inspector of the Plant Quarantine Division, Agricultural Research Service.

(b) Where plant or plant products are shipped from the port of first arrival to another port or place for inspection or other treatment by a representative of the Plant Quarantine Division and all customs requirements for the release of the merchandise have been met, the merchandise shall be forwarded under a special manifest (customs Form 7512) and in-bond labels or customs seals to the representative of the Plant Quarantine Division at the place at which the inspection or other treatment is to take place. No further release by the collector of customs shall be required.

§ 12.12 Release under bond.

Plants or plant products which require fumigation, disinfection, sterilization, or other treatment as a condition of entry may be released to the permittee for treatment at a plant approved by the Department of Agriculture upon the giving of a bond on customs Form 7551, 7553, or other appropriate form to insure that the merchandise is treated under the supervision and to the satisfaction of an inspector of the Department of Agriculture or returned to customs custody when demanded by the collector of customs.

§ 12.13 Unclaimed shipments.

(a) If plants or plant products enterable into the United States under the rules and regulations promulgated by the Secretary of Agriculture are unclaimed, they may be sold subject to the provisions of §§ 20.5 and 20.6 of this chapter to any person to whom a permit has been issued who can comply with the requirements of the regulations governing the material involved.

(b) Unclaimed plants and plant products not complying with the requirements mentioned in this section shall be destroyed, by burning or otherwise, under customs supervision.

§ 12.14 Detention.

(a) Collectors of customs shall refuse release of all plants or plant products with respect to which a notice of prohibition has been promulgated by the Secretary of Agriculture under any of the various quarantines. If an importer refuses to export a prohibited shipment immediately, the collector shall report the facts to the Plant Quarantine Division and the United States attorney and withhold delivery pending advice from that Bureau.

(b) In case of doubt as to whether any plant or plant product is prohibited, the collector shall detain it pending advice from the Department of Agriculture.

§ 12.15 Disposition; refund of duty.

Plants or plant products which are prohibited admission into the United States under Federal law or regulations and are exported or destroyed under proper supervision are exempt from duty and any duties collected thereon shall be refunded. (See §§ 8.49(b) and 15.5 of this chapter.)

(Sec. 558, 46 Stat. 744, as amended; 19 U.S.C. 1558)

AGRICULTURAL AND VEGETABLE SEEDS

§ 12.16 Joint regulations of the Secretary of the Treasury and the Secretary of Agriculture.

(a) The importation into the United States of agricultural and vegetable seeds and screenings thereof is governed by rules and regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture under section 402(b) of the Federal Seed Act of August 9, 1939.[*]

(b) Under the said joint rules and regulations, collectors of customs are required to draw samples of such seeds and screenings, forward them to the seed laboratories, and notify the owner or consignee that such samples have been drawn and that the shipment shall be held intact pending a decision of the Grain Division, Agricultural Marketing Service, in the matter.

(c) It is further provided in said joint rules and regulations that after samples have been drawn such seeds and screenings shall be admitted into the commerce of the United States only if they have been found to meet the requirements of the Federal Seed Act of August 9, 1939, and the said regulations, but if the containers bear sufficient marks of identification the collector of customs may release the shipment, pending examination and decision in the matter, upon the giving of a bond conditioned upon the return to customs custody of the seed or screenings or any part thereof upon demand of the col-

[*] See Appendix XIV, Customs Regulations of 1943.

lector of customs at any time. Such bond shall be on customs Form 7551, 7553, or other appropriate form, and shall be filed with the collector of customs who, in case of default, shall take appropriate action to effect the collection of the liquidated damages equal to the invoice value of the entire shipment plus the estimated duty thereof, if any.

(Sec. 402 (b), 53 Stat. 1285; 7 U. S. C. 1592(b))

VIRUSES, SERUMS, AND TOXINS FOR TREATMENT OF DOMESTIC ANIMALS

§ 12.17 Importation restricted.

The importation into the United States of viruses, serums, toxins, and analogous products for use in the treatment of domestic animals is prohibited[9a] unless the importer holds a permit from the Department of Agriculture covering the specific product. The collector of customs shall notify the Animal Inspection and Quarantine Division, Agricultural Research Service, Department of Agriculture, Washington, D.C., of the arrival of any such product, and detain it until he shall receive notice from that Department that a permit to import the shipment has been issued.

(37 Stat. 832, 833; 21 U. S. C. 151–158)

§ 12.18 Labels.

Each separate container of such virus, serum, toxin, or analogous product imported is required by the regulations of the Department of Agriculture to bear the true name of the product and the permit number assigned by the Department of Agriculture in the following form: "U.S. Veterinary Permit No. ————," or an abbreviation thereof authorized by the Animal Inspection and Quarantine Division, Agricultural Research Service. Each separate container also shall bear a serial number affixed by the manufacturer for identification of the product with the records of preparation thereof, together with a return date.

§ 12.19 Detention; samples.

(a) The collector of customs shall detain all shipments of such products for which no permit to import has been issued pending instructions from the Department of Agriculture.

(b) Samples shall be furnished to the Department of Agriculture upon its request, and the collector shall immediately notify the consignee of any such request.

§ 12.20 Disposition.

Viruses, serums, or toxins rejected by the Department of Agriculture shall be released by the collector to that Department for destruction, or exported under customs supervision at the expense of the importer if exportation is authorized by the Department of Agriculture.

VIRUSES, SERUMS, TOXINS, ANTITOXINS, AND ANALOGOUS PRODUCTS FOR THE TREATMENT OF MAN

§ 12.21 Licensed establishments.

The bringing into the United States for sale, barter, or exchange of any virus, therapeutic serum, toxin, antitoxin, or analogous product applicable to the prevention and cure of diseases of man is prohibited unless such virus, serum, toxin, antitoxin, or product has been propagated and prepared at an establishment holding an unsuspended and unrevoked license for such propagation.[10]

(Sec. 351, 58 Stat. 702; 42 U.S.C. 262)

§ 12.22 Labels; samples.

Each package of such products imported for sale, barter, or exchange shall be labeled or plainly marked with the name of the article, the name, address, and license number of the manufacturer, and the date beyond which the contents cannot be expected to yield their specific results. Samples of the same lot or laboratory number shall accompany each importation for sale, barter, or exchange, and such samples shall be forwarded by the collector of customs to the National Institute of Health of the United States Public Health Service at Washington, D. C.

(Sec. 351, 58 Stat. 702; 42 U.S.C. 262)

§ 12.23 Detention; examination; disposition.

(a) Collectors of customs shall detain all importations of viruses, serums, toxins, antitoxins, and analogous products for the treatment of the diseases of man pending examination by the National Institute of Health, unless satisfied from evidence furnished at the time of entry, in the form of an affidavit or otherwise, that the products are not intended for sale, barter, or exchange.

(b) If the shipment is imported for sale, barter, or exchange and is found by the National Institute of Health to be admissible, the collector shall release it upon receipt of a report from the Public Health Service that the article is admissible.

(c) If the Public Health Service reports that the article was found upon examination not to conform to the law and the regulations, the collector shall not release it but shall permit the exportation or destruction thereof under customs supervision at the option of the importer.

(Sec. 351, 58 Stat. 702; 42 U.S.C. 262)

DOMESTIC ANIMALS, ANIMAL PRODUCTS, AND ANIMAL FEEDING MATERIALS

§ 12.24 Regulations of the Department of Agriculture.

(a) The importation into the United States of domestic animals, animal products, and animal feeding materials is subject to inspection and quarantine regulations of the Department of Agriculture.[11] Customs officers and employees are authorized and directed to perform such functions as are necessary or proper on their part to carry out such regulations of the Department of Agriculture.

(b) Inspection by an inspector of the Animal Inspection and Quarantine Division, Agricultural Research Service, is required for all horses, cattle, sheep, other ruminants, and swine as a prerequisite to their entry from any foreign country. Orders listing the ports designated as quarantine stations for the inspection and quarantine of animals will be issued by the Secretary of Agriculture, with the approval of the Secretary of the Treasury, whenever conditions warrant.

(c) The entry of domestic animals may be made, but shall not be required, before the expiration of the quarantine period. Such animals, if not entered at the time of arrival, shall be considered as under general order while under quarantine and shall not be released except upon notice from the collector of customs that the importer has complied with all the requirements for entry.

WILD ANIMALS, BIRDS, AND INSECTS

§ 12.26 Importations of wild animals or birds; certain species prohibited; permits required.

(a) The importation into the United States or any territory or district thereof of the mongoose (Herpestes auropunctatus), the so-called "flying foxes" or fruit bats (all species of Genus Pteropus), the English sparrow (Passer domesticus), the starling (Sturnus vulgaris), and such other birds and animals as the Secretary of the Interior may from time to time declare to be injurious to the interests of agriculture or horticulture, is prohibited.[12] If any such bird

---

[9a] See Appendix XVII, Customs Regulations of 1943.

[10] See Appendix XVII, Customs Regulations of 1943.

[11] See Appendix XII, Customs Regulations of 1943, and BAI orders published from time to time in the weekly Treasury Decisions.

[12] "(a) The importation into the United States or any Territory or district thereof, of the mongoose, the so-called 'flying foxes' or fruit bats, the English sparrow, the starling, and such other birds and animals as the Secretary of the Interior may declare to be injurious to the interests of agriculture or horticulture, is prohibited; and all such birds and animals shall, upon arrival at any port of the United States, be destroyed or returned at the expense of the owner. Nothing in this subsection shall restrict the importation of natural-history specimens for museums or scientific collections, or of certain cage birds, such as domesticated canaries, parrots, or such other birds as the Secretary of the Interior may designate. The Secretary of the Treasury may make regulations for carrying into effect the provisions of this section.

"(b) Whoever violates this section shall be fined not more than $500 or imprisoned not more than six months, or both.

"(c) The Secretary of the Treasury shall prescribe such requirements and issue such permits as he may deem necessary for the transportation of wild animals and birds under humane and healthful conditions, and it shall be unlawful for any person, including any importer, knowingly to cause or permit any wild animal or bird to be transported to the United States, or any Territory or district thereof, under inhumane or unhealthful conditions or in violation of such requirements. In any criminal prosecution for violation of this subsection and in any administrative proceeding for the suspension of the issuance of further permits—

"(1) The condition of any vessel or conveyance, or the enclosures in which wild animals or birds are confined therein, upon its arrival in the United States, or any Territory or district thereof, shall constitute relevant evidence in determining whether the

or animal is imported, release thereof to the importer shall be refused and immediate exportation or destruction shall be required. The species of birds and animals declared by the Secretary of the Interior to be injurious to agriculture or horticulture are published in 50 CFR 9.1.[12a]

(1) Bird species of the genus Acridotheres classified as (i) tristis (commonly known as Common Myna, Indian Myna, or Common Ceylon Myna); (ii) cristatellus (sometimes referred to as Acridotheres grandis or Acridotheres fuscus and commonly known as Chinese crested Myna, Siamese Yellow-billed Jungle Myna, Assam Yellow-billed Myna, Indian Jungle Myna, Jungle Myna, Malay Jungle Myna, and Buffalo Myna); (iii) gingianus (commonly known as Bank Myna); (iv) albocinctus (commonly known as Collared Myna) are prohibited importation under 50 CFR 9.1 (a), except for scientific purposes under permits issued by the Director, Fish and Wildlife Service, Department of the Interior, or for exhibition in public zoological parks.

(2) All other wild birds are prohibited importation under 50 CFR 9.1 (b), except:

(i) Game birds imported for propagating, stocking, or scientific purposes, or for exhibition in zoological parks.

(ii) Non-game birds (other than those listed in paragraph (a) (1) of this section) for scientific purposes, exhibition in public zoological parks, confinement in cages or otherwise, or for introduction by State or Territorial wildlife conservation agencies when such agencies have obtained written permission from the Director, Fish and Wildlife Service.

(3) European rabbits (Lepus cuniculus) and European hares (Lepus europaeus) are prohibited importation under 50 CFR 9.1 (c), unless imported for fur farming or other agricultural purposes or for scientific purposes and such animals are to be kept in confinement.

(4) If any of the birds or animals referred to in the preceding three subparagraphs are imported for the purposes permitted, the importer and, in the case of a zoological park, the director or other principal officer thereof, shall file a declaration with the collector of customs stating the purpose of the importation and, in the case of non-game birds, rabbits, and hares, that such birds and animals will be kept in confinement.

(b) No permit is required for the importation of live wild animals and birds, except as follows:

(1) Wild birds protected by the Migratory Bird Treaty Act (16 U. S. C. 703–711) and the regulations promulgated thereunder (50 CFR Part 6), may be imported from foreign countries for scientific, propagating, or other limited purposes only under permits issued by Fish and Wildlife Service, United States Department of the Interior, Washington 25, D. C. No such permit is required of State or municipal game farms or city parks to import live migratory waterfowl. Public museums, zoological parks and societies, and public scientific and educational institutions may import migratory birds without a permit. Such migratory birds, when imported from Mexico, must be accompanied by Mexican export permits (50 CFR 6.8).

(2) Game mammals (antelope, mountain sheep, deer, bears, peccaries, squirrels, rabbits, and hares), protected by the Migratory Bird Treaty Act (16 U. S. C. 703–711), when imported from Mexico, must be accompanied by Mexican export permits. (50 CFR 6.7(b).)

(3) Wild ruminants (all animals which chew the cud, such as cattle, buffaloes, sheep, goats, deer antelopes, camels, llamas, and giraffes) and swine (various varieties of wild hogs), except from Canada and certain northern States of Mexico may be imported only under a permit from the Animal Inspection and Quarantine Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D.C. Such permits must be obtained before the animals are shipped from the country of exportation.[13] All wild ruminants and swine must be inspected at designated ports of entry by veterinarians of the Animal Inspection and Quarantine Division, Agricultural Research Service, United States Department of Agriculture.

(4) Psittacine birds, which include all birds commonly known as parrots, Amazons, African grays cockatoos, macaws, parrakeets, lovebirds, lories, lorikeets, and all other birds of the order Psittaciformes, when destined for a zoological park or medical research institution, or psittacine birds taken out of the United States but which are not admissable under paragraph (c) of this section, may be imported only under a permit from the Surgeon General (Division of Foreign Quarantine), United States Public Health Service, Department of Health, Education, and Welfare, Washington 25, D. C. Such permits must be obtained prior to importation.[13a]

(5) Ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl, except from Canada, may be imported only under a permit from the Animal Inspection and Quarantine Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D.C.[13] Such permits must be obtained before the birds are shipped from the country of origin. Such birds from Canada must be accompanied by a certificate issued by a Canadian Government veterinarian. All such birds must be inspected at designated ports of entry by veterinarians of the Animal Inspection and Quarantine Division, Agricultural Research Service, United States Department of Agriculture.

(c) Parrots and all other birds of the order Psittaciformes, when not exceeding two in number, may be imported by the owner under certain conditions and upon compliance with the Foreign Quarantine Regulations of the United States Public Health Service.[13a] This provision also covers such birds taken out of the United States and returned to this country. However, a permit is necessary when three or more such birds are to be taken out of the United States and returned at a later date. A permit is also required in the case of one or two birds taken out of the country for subsequent return, if such birds were purchased within 4 months before their exportation. Such birds shall not be released until the Public Health regulations are complied with by the importer.

(d) Cats, dogs, and monkeys are subject to the Foreign Quarantine Regulations of the United States Public Health Service, Department of Health, Education, and Welfare, Washington, D. C.[13b] Such animals shall not be released until the Public Health regulations are complied with by the importer.

(e) If a shipment contains migratory birds for which a permit is required by the Fish and Wildlife Service of the Department of the Interior, and such permit is not at hand when the birds arrive, an examination thereof shall be made at once by the examiner and any duties estimated to be due shall be collected. A stipulation shall be filed with the collector within 24 hours of the entry to produce the necessary permit within 30 days from the date of entry, whereupon final liquidation shall be suspended until the permit is produced or the 30-day period expires. Meanwhile, the property may be released to the importer, consignee, or agent for proper care upon the giving of a bond conditioned upon the return of the birds to customs custody upon demand of the collector of customs at any time. Such bond shall be on customs Form 7551, 7553, or other appropriate form in an amount equal to the sum of the entered value plus any estimated duties and shall be filed with the collector of customs who, in the case of default, shall take appropriate action to effect the collection of liquidated damages equal to the entered value of the merchandise not returned plus any estimated duty thereon; or if the importer, consignee, or agent shall so elect, the property may be retained in customs custody at the expense of the importer pending the issuance of the permit.

(f) If the permit referred to in paragraph (e) of this section is refused by the Fish and Wildlife Service, or if the permit is not produced within the said 30 days, the collector shall promptly recall the property, if delivered under bond, and shall require its immediate exportation at the expense of the importer or consignee.

(g) In case of doubt as to whether the animals or birds belong to prohibited species, or of suspicion on the part of the officers of the customs that the species sought to be entered are prohibited animals or birds imported under

provisions of this subsection have been violated; and

"(2) The presence in such vessel or conveyance at such time of a substantial ratio of dead, crippled, diseased, or starving wild animals or birds shall be deemed prima facie evidence of the violation of the provisions of this subsection." (18 U. S. C. 42)

[12a] See Appendix XXIII, Customs Regulations of 1943, quoting 50 CFR 9.1 and 9.2.

[13] See Appendix XII, Customs Regulations of 1943, quoting 9 CFR Part 92.

[13a] See Appendix XVIII, Customs Regulations of 1943, quoting 42 CFR 71.152, 71.153.

[13b] See Appendix XVIII, quoting 42 CFR 71.154, 71.155.

other names, such animals or birds shall be retained in customs custody at the expense and risk of the importer pending the determination of the true nature of the species, to the satisfaction of the collector. Where there is doubt as to whether a shipment may contain species declared prohibited by the Secretary of the Interior under 18 U. S. C. 42 or migratory birds coming under the jurisdiction of his Department, such species shall be examined by a special inspector of the Department of the Interior. In case of refusal or neglect of the importer, consignee, or agent to have the identity so established, release of the importation shall be refused and immediate exportation required.

(h) All invoices of animals and birds shall specify the species covered thereby and the number of each species. In the event of the return to the collector of any importation under the bond given under paragraph (e) of this section, if the number and species of birds does not correspond with the description stated in the invoice and if no satisfactory explanation of any discrepancy is furnished, the bond shall be forfeited.

(i) The privilege of entry for immediate transportation granted by section 552, Tariff Act of 1930, shall not be allowed for animals or birds the importation of which is prohibited or which require permits issued prior to their importation or are subject to quarantine regulations at the port of first arrival or at a designated port (see paragraphs (a) and (b) of this section).

(j) Wild animals and birds shall be imported under humane and healthful conditions, due regard being given to the accommodations and facilities necessary for the species transported.

(k) When any customs officer has good reason to believe that wild animals or birds have been imported under inhumane or unhealthful conditions in violation of 18 U. S. C. 42, an immediate investigation shall be made to ascertain whether they have in fact been transported under such conditions. The investigation shall determine the provisions made on the vessel or other conveyance for the accommodation of the animals or birds, the suitability of the boxes, cages, stalls, etc., the space, ventilation, and protection from the elements accorded the animals or birds, the facilities for cleaning, feeding, watering, bedding, and such other services as may be required for the species imported. The investigation shall also determine the physical condition of such animals or birds and the ratio of dead, crippled, diseased, or starving animals or birds. If necessary, officers of the Animal Inspection and Quarantine Division, Agricultural Research Service, or Fish and Wildlife Service, or other officers or experts, may be called upon to assist customs officers in the matter.

(l) Unless the collector of customs is satisfied that the provisions of 18 U. S. C. 42 have not been violated, he shall report the matter to the United States attorney for appropriate action.

(Sec. 1, 62 Stat. 687, as amended; 18 U. S. C. 42)

§ 12.27 Importation or exportation of wild animals or birds, or the dead bodies thereof illegally captured or killed, etc.

Certain statutory provisions prohibit or restrict the importation or exportation of wild animals or birds, or the dead bodies thereof, or the eggs or such birds, killed, captured, taken, transported, etc., contrary to law.[14] Customs officers shall perform all duties required of them under such laws.

[14] "Whoever delivers or knowingly receives for shipment, transportation, or carriage in interstate or foreign commerce, any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country, or captured, killed, taken, purchased, sold, or possessed contrary to any Act of Congress, or the law of any State, Territory, Possession, or foreign country, or subdivision thereof; or

"Whoever transports, brings, or conveys from any foreign country into the United States any wild animal or bird, or the dead body or part thereof, or the egg of any such bird captured, killed, taken, shipped, transported, or carried contrary to the law of such foreign country or subdivision thereof; or

"Whoever knowingly purchases or receives any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country or shipped, transported, carried, brought, or conveyed in violation of this section; or

"Whoever, having purchased or received any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country or shipped, transported, or carried in interstate commerce, makes any false record or account thereof; or

"Whoever imports from or exports to Mexico any game mammal, dead or alive, or parts or products thereof, except under permit or authorization of the Secretary of the Interior, in accordance with regulations issued by him and approved by the President—

"Shall be fined not more than $500 or imprisoned not more than six months, or both; and the wild animals or birds, or the dead bodies or parts thereof, or the eggs of such birds, shall be forfeited." (18 U. S. C. 43)

"Whoever ships, transports, carries, brings or conveys in interstate or foreign commerce any package containing wild animals or birds, or the dead bodies or parts thereof, without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee and with an accurate statement showing the contents by number and kind; or

"Whoever ships, transports, carries, brings or conveys in interstate commerce, any package containing migratory birds included in any convention to which the United States is a party, without marking, labeling, or tagging such package as prescribed in such conventions, or Act of Congress, or regulation thereunder; or

"Whoever ships, transports, carries, brings or conveys in interstate commerce any package containing furs, hides, or skins of wild animals without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee—

"Shall be fined not more than $500 or imprisoned not more than six months, or both; and the shipment shall be forfeited." (18 U. S. C. 44)

"Any employee authorized by the Secretary of the Interior to enforce sections 43 and 44 of this title, and any officer of the customs, may arrest any person violating said sections in his presence or view, and may execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of said sections." (18 U. S. C. 3054)

"Any employee authorized by the Secretary of the Interior to enforce sections 43 and 44 of this title, and any officer of the customs, shall have authority to execute any warrant to search for and seize any property used or possessed in violation of said sections and property so seized shall be held by him or by the United States marshal pending disposition thereof by the court." (18 U. S. C. 3112)

§ 12.28 Importation of wild mammals and birds in violation of foreign law.

(a) No imported wild mammal or bird, or part or product thereof, shall be released from customs custody under bond or otherwise if the collector has knowledge of a foreign law or regulation that brings the importation within the purview of section 527 (a), Tariff Act of 1930,[15] unless it is accompanied by the required consular certificate or entitled to entry under the provisions of section 527 (c) of the tariff act.

(b) When the collector seizes articles for violation of such section 527, he shall proceed under the provisions of the tariff act applicable to seizure and forfeiture of merchandise valued at less than $2,500, except that perishable articles or

[15] "(a) *Importation prohibited.* If the laws or regulations of any country, dependency, province, or other subdivision of government restrict the taking, killing, possession, or exportation to the United States, of any wild mammal or bird, alive or dead, or restrict the exportation to the United States of any part or product of any wild mammal or bird, whether raw or manufactured, no such mammal or bird, or part or product thereof, shall, after the expiration of ninety days after the enactment of this Act, be imported into the United States from such country, dependency, province, or other subdivision of government, directly or indirectly, unless accompanied by a certification of the United States consul, for the consular district in which is located the port or place from which such mammal or bird, or part or product thereof, was exported from such country, dependency, province, or other subdivision of government, that such mammal or bird, or part or product thereof, has not been acquired or exported in violation of the laws or regulations of such country, dependency, province, or other subdivision of government.

"(b) *Forfeiture.* Any mammal or bird, alive or dead, or any part or product thereof, whether raw or manufactured, imported into the United States in violation of the provisions of the preceding subdivision shall be subject to seizure and forfeiture under the customs laws. Any such article so forfeited may, in the discretion of the Secretary of the Treasury and under such regulations as he may prescribe, be placed with the departments or bureaus of the Federal or State Governments, or with societies or museums, for exhibition or scientific or educational purposes, or destroyed, or (except in the case of heads or horns of wild mammals) sold in the manner provided by law.

"(c) *Section not to apply in certain cases.* The provisions of this section shall not apply in the case of—

"(1) *Prohibited importations.* Articles, the importation of which is prohibited under the provisions of this Act, or of section 241 of the Criminal Code, or of any other law;

"(2) *Scientific or educational purposes.* Wild mammals or birds, alive or dead, or parts or products thereof, whether raw or manufactured, imported for scientific or educational purposes;

"(3) *Certain migratory game birds.* Migratory game birds (for which an open sea-

canned-food articles shall be destroyed if the importer assents in writing to the forfeiture, or, if the importer does not assent to the forfeiture, such articles shall be sent to a cold-storage warehouse at the expense of the importer pending instructions from the Bureau as to their disposition.

(Sec. 527, 46 Stat. 741; 19 U. S. C. 1527)

NOTE: T. D. 50950, Oct. 23, 1943, 8 F. R. 14603, provides in part as follows:

The Bureau has ascertained from reliable sources of information that South American alpacas are domesticated, and not wild animals.

Accordingly, since section 527 of the Tariff Act of 1930 refers only to wild mammals and birds, T. D. 50260, as amended by T. D. 50329, is hereby further amended so as to exclude from its operation live alpacas from Bolivia.

§ 12.29 Plumage and eggs of wild birds.

(a) The provisions of schedule 1, part 15D, headnote 2, Tariff Schedules of the United States,[16] relating to the plumage of any bird, apply to all such plumage, whether imported separately or upon the bird itself, except (1) the feathers of birds specifically excepted by said headnote 2, (2) plumage imported for scientific or educational purposes, (3) fully-manufactured artificial flies used for fishing, (4) plumage on game birds killed in foreign countries by residents of the United States and not imported for sale or other commercial purposes, and (5) plumage on live wild birds.

(b) The feathers or skins of certain birds may be imported for use in the manufacture of artificial flies used for fishing or for millinery purposes only under a permit issued by the Fish and Wildlife Service, United States Department of Interior, Washington, D. C., 20240.[16a] No feathers or skins of the species provided for by schedule 1, part 15D, headnote 2, Tariff Schedules of the United States, shall be permitted to be entered, or withdrawn from warehouse, for consumption, unless the requisite permit is presented with the entry or withdrawal.

---

son is provided by the laws of the United States and any foreign country which is a party to a treaty with the United States, in effect on the date of importation, relating to the protection of such migratory game birds) brought into the United States by bona fide sportsmen returning from hunting trips in such country, if at the time of importation the possession of such birds is not prohibited by the laws of such country or of the United States." (Tariff Act of 1930, sec. 527; 19 U. S. C. 1527)

[16] "2(a) Except as provided in (b) and (c) of this headnote, the importation of the feathers or skin of any bird is hereby prohibited. Such prohibition shall apply to the feathers or skin of any bird—

"(i) whether raw or processed;

"(ii) whether the whole plumage or skin or any part of either;

"(iii) whether or not attached to a whole bird or any part thereof; and

"(iv) whether or not forming part of another article.

"(b) Headnote 2(b) shall not apply—

"(i) in respect of any of the following birds (other than any such bird which, whether or not raised in captivity, is a wild bird): chickens (including hens and roosters), turkeys, guinea fowl, geese, ducks, pigeons, ostriches, rheas, English ring-necked pheasants, and pea fowl;

"(ii) to any importation for scientific or educational purposes;

"(iii) to the importation of fully-manufactured artificial flies used for fishing;

"(iv) to the importation of birds which are classifiable under item 813.20 of schedule 8; and

"(v) to the importation of live birds.

"(c) Notwithstanding headnote 2(a), there may be entered in each calendar year the following quotas of skins bearing feathers:

"(i) for use in the manufacture of artificial flies used for fishing: (A) not more than 5,000 skins of grey jungle fowl (*Gallus sonneratii*), and (B) not more than 1,000 skins of mandarin duck (*Dendronessa galericulata*); and

"(ii) for use in the manufacture of artificial flies used for fishing, or for millinery purposes, not more than 45,000 skins, in the aggregate, of the following species of pheasant: Lady Amherst pheasant (*Chrysolophus amherstiae*), golden pheasant (*Chrysolophus pictus*), silver pheasant (*Lophura nycthemera*), Reeves pheasant (*Syrmaticus reevesii*), blue-eared pheasant (*Crossoptilon auritum*), and brown-eared pheasant (*Crossoptilon mantchuricum*).

For the purposes of these quotas, any part of a skin which has been severed shall be considered to be a whole skin.

"(d) No article specified in headnote 2(c) shall be entered except under a permit issued by the Secretary of the Interior. The Secretary of the Interior shall prescribe such regulations as may be necessary to carry out the purposes and provisions of headnote 2(c) (including regulations providing for equitable allocation among qualified applicants of the import quotas established by such provisions). Whenever the Secretary of the Interior finds that the wild supply of any species mentioned in headnote 2(c) is threatened with serious reduction or with extinction, he shall prescribe regulations which provide (to such extent and for such period as he deems necessary to meet such threat)—

"(i) in the case of grey jungle fowl or mandarin duck, for the reduction of the applicable import quota; or

"(ii) in the case of any species of pheasant, for the reduction of the import quota established for pheasants, for the establishment of a subquota for such species of pheasant, or for the elimination of such species from the import quota for pheasants, or any combination thereof.

The authority granted to the Secretary of the Interior by the preceding sentence to reduce any import quota shall include authority to eliminate such quota.

"(e) Any article of a kind the importation of which is prohibited or subjected to a quota by headnotes 2 (a), (b), and (c) and which is in the United States shall be presumed for the purposes of seizure and forfeiture to have been imported in violation of law and shall be seized and forfeited under the customs laws unless such presumption is satisfactorily rebutted; except that such presumption shall not apply to articles in actual use for personal adornment or for scientific or educational purposes. Any article so forfeited may (in the discretion of the Secretary of the Treasury and under such regulations as he may prescribe) (1) be placed with any agency of the Federal Government or of any State government, or any society or museum, for exhibition or scientific or educational purposes, or (2) be destroyed.

"(f) Nothing in these headnotes shall be construed to repeal the provisions of the Act of March 4, 1913, chapter 145 (Thirty-seventh Statutes at Large, page 847), or the Act of July 3, 1918 (Fortieth Statutes at Large, page 755), or any other law of the United States, now of force, intended for the protection or preservation of birds within the United States. If on investigation by the collector before seizure, or before trial for forfeiture, or if at such trial if such seizure has been made, it shall be made to appear to the collector, or the prosecuting officer of the Government, as the case may be, that no illegal importation of such feathers has been made, but that the possession, acquisition or purchase of such feathers is or has been made in violation of the provisions of the Act of March 4, 1913, chapter 145 (Thirty-seventh Statutes at Large, page 847), or the Act of July 3, 1918 (Fortieth Statutes at Large, page 755), or any other law of the United States, now of force, intended for the protection or preservation of birds within the United States, it shall be the duty of the collector, or such prosecuting officer, as the case may be, to report the facts to the proper officials of the United States, or State or Territory charged with the duty of enforcing such laws." (Schedule 1, part 15D, headnote 2, Tariff Schedules of the United States.)

For permit regulation of the United States Fish and Wildlife Service, Department of Interior, see 50 CFR, Part 14.

(c) The eggs of game birds may be entered for propagating purposes upon the filing of a declaration with the collector of customs that they are being imported for propagation and will be so used.[16a] The eggs of migratory birds may be imported for propagating purposes under permits issued by the Fish and Wildlife Service, United States Department of the Interior, Washington, D.C., 20240. Eggs of migratory birds may also be imported under permits issued by the Fish and Wildlife Service for scientific and other limited purposes. Public museums, zoological parks and societies, and public scientific and educational institutions may import the eggs of migratory birds without a permit. (See 50 CFR 6.8.) The eggs of certain game or migratory birds imported for hatching, such as ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl, are subject to the regulations of the Animal Inspection and Quarantine Division, Agricultural Research Service, United States Department of Agriculture, Washington, D.C., 20250.[16b] Such regulations require that permits, except for eggs from Canada, must be obtained before the eggs are shipped from the country of origin and that all eggs shall be accompanied by a certificate issued by a government veterinarian of the country of origin and inspected at a designated port of entry.

(d) Upon the attempted importation of eggs of wild birds, the importation of which is prohibited by schedule 1, part 4E, headnote 1, Tariff Schedules of the United States,[17] the eggs shall be seized and the importer accorded an opportunity to assent to forfeiture. In the event the importer refuses or fails to assent to the forfeiture of the prohibited eggs, the collector shall proceed to forfeit them under the provisions of the

---

[16a] See Appendix XXIII, Customs Regulations of 1943, quoting 50 CFR 9.1 and 9.2.

[16b] See Appendix XII, Customs Regulations of 1943, quoting 9 CFR, Part 92.

[17] "1. The importation of eggs of wild birds is prohibited, except eggs of game birds imported for propagating purposes under regulations prescribed by the Secretary of Agriculture, and specimens imported for scientific collections." (Schedule 1, part 4E, headnote 1, Tariff Schedules of the United States.)

tariff act applicable to seizure and forfeiture of merchandise valued at less than $2,500.

(Sec. 10I, 76 Stat. 72; Sch. 1, pt. 4E, headnote 1, part 15D, headnote 2, Tariff Schedules of the United States)

§ 12.30 Whaling.

The importation and exportation of whales or whale products taken or processed in violation of the International Convention for the Regulation of Whaling signed at Washington under date of December 2, 1946,[17a] or of the Whaling Convention Act of 1949,[17b] or of any regulation issued under the said act,[17c] is unlawful. Customs officers and employees shall perform all functions required of them by the above-mentioned convention, law, and regulations.

§ 12.31 Injurious insects.

The importation in a live state of insects which are injurious to cultivated crops, including vegetables, field crops, bush fruits, and orchard, forest or shade trees, and of the eggs, pupae, or larvae of such insects, except for scientific purposes under regulations prescribed by the Secretary of Agriculture, is prohibited.[18] All packages containing live insects or their eggs, pupae, or larvae arriving from abroad, unless accompanied by a permit issued by the Department of Agriculture, shall be detained and submitted to the Plant Quarantine Branch, Agricultural Research Service of that Department for inspection and determination of their admissibility into the United States.

(Sec. 1, 33 Stat. 1269; 7 U.S.C. 141)

§ 12.32 Honeybees.

The importation into the United States of adult honeybees, except by the Department of Agriculture for experimental or scientific purposes, is prohibited,[19] unless such importation is from a country in respect of which the Secretary of Agriculture shall determine that no diseases dangerous to adult honeybees exist therein. The importation of adult honeybees that may be lawfully imported is governed by joint regulations of the Secretary of Agriculture and the Secretary of the Treasury published in Treasury Decisions from time to time.

(Sec. 1, 42 Stat. 833; 7 U.S.C. 281)

Tea

§ 12.33 Importation of tea; entry; examination for customs purposes.

(a) The importation of any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards prescribed by the Act of March 2, 1897, as amended (21 U.S.C. 41–50), is prohibited.[20] Customs officers and employees shall perform all duties required of them by the said act and regulations.

(b) The importation of tea is subject also to the provisions of the Federal Food, Drug, and Cosmetic Act and the regulations thereunder. See §§ 12.2 to 12.6.

(c) All entries of tea shall be on regular forms, and the regular serial numbers for both bonds and entries shall be used.

(d) The collector may order such an examination of packages containing tea as will satisfy him that no dutiable goods are packed therein. For this purpose the customary designation shall be made of packages for examination in public stores.

(e) If the invoice has not been received, the importer may use an additional copy of the chop list and release permit required by the regulations of the Department of Health, Education, and Welfare as a pro forma invoice, marking "Pro forma invoice" across the face thereof.

White Phosphorus Matches

§ 12.34 Importation prohibited; certificate of inspection; importer's declaration.

(a) The importation into the United States of white phosphorus matches is prohibited.[21]

(b) Invoices covering matches imported into the United States shall be accompanied by a certificate of official inspection of the Government of the country of manufacture in the following form:

CERTIFICATE OF OFFICIAL INSPECTION OF MATCHES

I, _____, do hereby certify
(Name)
that I am the _____, that
(Official title)
according to the chemical analysis made by me the matches described below do not contain white or yellow phosphorus and that therefore they are not white phosphorus matches as defined in the Act of Congress of the United States of America approved April 9, 1912;

Number of case and mark	Description of matches	Name and address of manufacturer	Name of consignee and address, vessel, and date of shipment

---
(Signature)

(Official title)

(c) In the absence of such certificate, the matches shall be detained until a certificate is produced or the importer submits satisfactory evidence to show that the matches were not in fact manufactured with the use of poisonous white or yellow phosphorus.

(d) The production of the above certificate shall not be required on the entry of matches manufactured in countries which prohibit the use of white or yellow phosphorus in the manufacture of matches.

(e) At the time of filing an entry for imported matches, the importer shall make a declaration that to the best of his knowledge and belief no matches

---

[17a] Publication No. 3383 Dept. of State, Whaling Convention.

[17b] 16 U. S. C. 916–916 (1).

[17c] Regulations of the International Whaling Commission are codified in 50 CFR, Part 351.

[18] "No railroad, steamboat, express, stage, or other transportation company shall knowingly transport from one State or Territory into any other State or Territory, or from the District of Columbia into a State or Territory, or from a State or Territory into the District of Columbia, or from a foreign country into the United States, the gypsy moth, brown-tail moth, leopard moth, plum curculio, hop plant louse, boll weevil, or any of them in a live state, or other insect in a live state which is notoriously injurious to cultivated crops, including vegetables, field crops, bush fruits, orchard trees, forest trees, or shade trees; or the eggs, pupae, or larvae of any insect injurious as aforesaid, except when shipped for scientific purposes under the regulations hereinafter provided for; nor shall any person remove from one State or Territory into another State or Territory, or from a foreign country into the United States, or from a State or Territory into the District of Columbia, or from the District of Columbia into any State or Territory, except for scientific purposes under the regulations hereinafter provided for, the gypsy moth, brown-tail moth, leopard moth, plum curculio, hop plant louse, boll weevil, or any of them in a live state, or other insects in a live state which is notoriously injurious to cultivated crops, including vegetables, field crops, bush fruits, orchard trees, forest trees, or shade trees; or the eggs, pupae, or larvae of any insect injurious as aforesaid." (7 U. S. C. 141)

[19] "In order to prevent the introduction and spread of diseases dangerous to the adult honeybee, the importation into the United States of the honeybee (Apis mellifica) in its adult stage is hereby prohibited, and all adult honeybees offered for import into the United States shall be destroyed if not immediately exported: *Provided*, That such adult honeybees may be imported into the United States for experimental or scientific purposes by the United States Department of Agriculture: *And provided further*, That such adult honeybees may be imported into the United States from countries in which the Secretary of Agriculture shall determine that no diseases dangerous to adult honeybees exist, under rules and regulations prescribed by the Secretary of the Treasury and the Secretary of Agriculture." (7 U. S. C. 281)

[20] See Appendix XV, Customs Regulations of 1943.

[21] "White phosphorus matches, manufactured wholly or in part in any foreign country, shall not be entitled to entry at any of the ports of the United States, and the importation thereof is prohibited. All matches imported into the United States shall be accompanied by such certificate of official inspection by the government of the country in which such matches were manufactured as shall satisfy the Secretary [of the Treasury] that they are not white phosphorus matches. The Secretary [of the Treasury] is authorized and directed to prescribe such regulations as may be necessary for the enforcement of the provisions of this section." (26 U. S. C. 2654)

"For the purposes of this chapter the words 'white phosphorus' shall be understood to mean the common poisonous white or yellow phosphorus used in the manufacture of matches and not to include the nonpoisonous forms or the nonpoisonous compounds of white or yellow phosphorus." (26 U. S. C. 2650)

"The importation of white phosphorous matches is prohibited." (Schedule 7, Part 9A, Headnote 1, Tariff Schedules of the United States.)

included in the invoice and entry are white phosphorus matches.

(68A Stat. 569, 570, sec. 101, 76 Stat. 72; 26 U.S.C. 4802, 4805(a); Sch. 7, pt. 9A, hdnote. 1, Tariff Schedules of the United States)

§ 12.35 Exportation.

(a) The exportation from the United States of white phosphorus matches is unlawful.[22]

(b) The shipper, owner, or agent of matches intended for exportation from the United States shall file with the collector at least 6 hours before such matches are laden for exportation a manifest, in duplicate, signed by the shipper, which shall state the date of exportation, the name of the exporting carrier, the marks and numbers of the packages, and the specific descriptions of the matches. There shall be attached to the manifest an affidavit of the shipper that no white phosphorus matches are included in the shipment.

(c) The collector may cause any matches offered for exportation to be opened and inspected. If any such matches are found to be white phosphorus matches, the collector shall detain them and report the facts to the Bureau for instructions.

(Sec. 68A Stat. 570; 26 U.S.C. 4805(b))

NARCOTIC DRUGS

§ 12.36 Regulations of Bureau of Narcotics.

The importation and exportation of narcotic drugs are governed by regulations of the Bureau of Narcotics.[23] Customs officers and employees shall perform all duties imposed upon them by such regulations and the laws under which they are issued. Such regulations are in addition to, and not in lieu of, the customs, internal-revenue, and other pertinent laws and regulations.

LIQUORS

§ 12.37 Restricted importations.

(a) The basic permit requirements prescribed by the act of August 29, 1935 (27 U. S. C. 203),[24] shall not be deemed applicable when the collector is satisfied that the liquor is for personal use or for experimental purposes in the making of analyses, tests, or comparisons.

(b) The production of a basic permit shall not be required when spirits are withdrawn from warehouse under any form of withdrawal entry.

(c) Blending or rectifying of wines or distilled spirits in class 6 manufacturing warehouses, or the bottling of imported distilled spirits in class 8 manipulation warehouses, shall not be permitted unless the proprietor has obtained an appropriate permit from the Alcohol Tax Unit, Internal Revenue Service.

(Sec. 3, 49 Stat. 978, as amended; 27 U. S. C. 203)

§ 12.38 Labeling requirements; packages.

All packages of liquor not labeled as required by 18 U.S.C. 1263[25] and any vessel or vehicle, other than a common carrier, used in the transportation of such liquor shall be seized and disposed of in accordance with 18 U. S. C. 3615[25] (see § 23.25 (c) of this chapter).

(Sec. 1, 62 Stat. 840, 18 U.S.C. 3615)

UNFAIR COMPETITION

§ 12.39 Exclusion from entry; entry under bond.

(a) No entry of merchandise with respect to which the President, under section 337, Tariff Act of 1936,[25] has found unfair methods of competition or unfair acts in the importation to exist shall be accepted. No entry of merchandise of which the President has requested the Secretary to forbid entry pending the completion of an investigation shall be accepted unless there is presented with such entry the special bond provided for in subdivision (f) of said section 337 or unless such other condition as the President may specify has been complied with.

(b) The bond to be used in connection with the release of merchandise pursuant to such section 337 (f) of the tariff act shall be in an amount equal to the domestic value defined in section 340, Tariff Act of 1930, as ascertained by the appraising officer, and shall be conditioned upon the exportation of the merchandise if it is finally determined that such merchandise should be excluded from entry into the United States.

(c) In the event the President directs the exclusion of merchandise which has been released under bond pursuant to the authority contained in section 337 (f), Tariff Act of 1930, the collector of customs shall notify each importer concerned to export the prohibited merchandise under customs supervision unless the entry of the merchandise is permitted under license and an appropriate license is presented. In lieu of exportation, the merchandise may be destroyed under customs supervision upon receipt of a written request of the importer. Unless any such prohibited merchandise which has been released under bond is exported or destroyed under customs supervision, or an appropriate license is presented within 30 days after notice is given the importer concerned, demand shall be made upon the principal and the sureties on the bond for payment of the penal sum thereof as liquidated damages. If the conditions of any bond taken in such a case have been met, or the President determines that the entry of the merchandise did not violate the provisions of section 337 of the tariff act, the bond shall be canceled.

(Sec. 337, 46 Stat. 703; 19 U. S. C. 1337)

---

[22] "It shall be unlawful to export from the United States any white phosphorus matches. The Secretary [of the Treasury] shall have power to issue such regulations to customs officers as are necessary to the enforcement of this section." (26 U.S.C. 2656)

[23] See Appendix XVI, Customs Regulations of 1943.

[24] "(a) It shall be unlawful, except pursuant to a basic permit issued under this chapter by the Secretary of the Treasury—

* * * * *

"(1) to engage in the business of importing into the United States distilled spirits, wine, or malt beverages; * * *

"(b) It shall be unlawful, except pursuant to a basic permit issued under this chapter by the Secretary of the Treasury—

"(1) to engage in the business of distilling distilled spirits, producing wine, rectifying or blending distilled spirits or wine, or bottling, or warehousing and bottling, distilled spirits; * * *

"* * * This section shall not apply to any agency of a State or political subdivision thereof or any officer or employee of any such agency, and no such agency or officer or employee shall be required to obtain a basic permit under this chapter." (27 U. S. C. 203)

[25] "Whoever knowingly ships into any place within the United States, any package of or package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, unless such package is so labeled on the outside cover as to plainly show the name of the consignee, the nature of its contents, and the quantity contained therein, shall be fined not more than $1,000 or imprisoned not more than one year, or both." (18 U. S. C. 1263)

"All liquor involved in any violation of sections 1261–1265 of this title, the containers of such liquor, and every vehicle or vessel used in the transportation thereof, shall be seized and forfeited and such property or its proceeds disposed of in accordance with the laws relating to seizures, forfeitures, and dispositions of property or proceeds, for violation of the internal-revenue laws." (18 U. S. C. 3615)

[25] "(a) *Unfair methods of competition declared unlawful.* Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are hereby declared unlawful, and when found by the President to exist shall be dealt with, in addition to any other provisions of law, as hereinafter provided.

* * * * *

"(e) *Exclusion of articles from entry.* Whenever the existence of any such unfair method or act shall be established to the satisfaction of the President he shall direct that the articles concerned in such unfair methods or acts, imported by any person violating the provisions of this Act, shall be excluded from entry into the United States, and upon information of such action by the President, the Secretary of the Treasury shall, through the proper officers, refuse such entry. The decision of the President shall be conclusive.

"(f) *Entry under bond.* Whenever the President has reason to believe that any article is offered or sought to be offered for entry into the United States in violation of this section but has not information sufficient to satisfy him thereof, the Secretary of the Treasury shall, upon his request in writing, forbid entry thereof until such investigation as the President may deem necessary shall be completed; except that such articles shall be entitled to entry under bond prescribed by the Secretary of the Treasury.

"(g) *Continuance of exclusion.* Any refusal of entry under this section shall continue in effect until the President shall find and instruct the Secretary of the Treasury that the conditions which led to such refusal of entry no longer exist. * * *." (Tariff Act of 1930, sec. 337; 19 U. S. C. 1337)

§ 12.40 Seizure; disposition of seized articles; reports to United States attorney.

(a) Any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, seized under section 305, Tariff Act of 1930,[27] shall be transmitted to the United States attorney for his consideration and action.

(b) Upon the seizure of articles or matter prohibited entry by section 305, Tariff Act of 1930 (with the exception of the matter described in paragraph (a) of this section), a notice of the seizure of such articles or matter shall be sent to the consignee or addressee.

(c) When articles of the class covered by paragraph (b) of this section are of small value and no criminal intent is apparent, a blank assent to forfeiture, customs Form 4609, shall be sent with the notice of seizure. Upon receipt of the assent to forfeiture duly executed, the articles shall be destroyed if not needed for official use and the case closed.

(d) In the case of a repeated offender or when the facts indicate that the importation was made deliberately with intent to evade the law, the facts and evidence shall be submitted to the United States attorney for consideration of prosecution of the offender as well as an action in rem under section 305 for condemnation of the articles.

(e) If the importer declines to execute an assent to forfeiture of the articles other than those mentioned in paragraph (a) of this section and fails to submit, within 30 days after being notified of his privilege so to do, a petition under section 618, Tariff Act of 1930, for the remission of the forfeiture and permission to export the seized merchandise, information concerning the seizure shall be submitted to the United States attorney in accordance with the provisions of the second paragraph of section 305 (a), Tariff Act of 1930, for the institution of condemnation proceedings.

(f) If seizure is made of books or other articles which do not contain obscene matter but contain information or advertisements relative to the prevention of conception or to means of causing abortion, the procedure outlined in paragraphs (b), (c), (d), and (e) of this section shall be followed.[28]

(g) In any case when a book is seized as being obscene and the importer declines to execute an assent to forfeiture on the ground that the book is a classic, or of recognized and established literary or scientific merit, a petition addressed to the Secretary of the Treasury with evidence to support the claim may be filed by the importer for release of the book. Mere unsupported statements or allegations will not be considered. If the ruling is favorable, release of such book shall be made only to the ultimate consignee.

(h) Whenever it clearly appears from information, instructions, advertisements enclosed with or appearing on any drug or medicine or its immediate or other container, or otherwise that such drug or medicine is intended for preventing conception or inducing abortion, such drug or medicine shall be detained or seized. The mere fact that it may be capable of contraceptive use is not conclusive on the question of intent.

(i) Contraceptive devices imported by or for a particular physician shall not be detained under the provisions of section 305, Tariff Act of 1930, if the collector of customs concerned is satisfied that the ultimate consignee is a reputable physician, and if there is filed with such collector a declaration of the ultimate consignee stating that the devices are to be used only to protect the health of his patients.

(j) When an importer contends that he may lawfully import contraceptive articles and the collector is not satisfied that the importation is within the purview of paragraph (i) of this section, he shall be advised to file with the collector a communication addressed to the Commissioner of Customs setting forth his claims in detail to be transmitted by the collector to the Bureau together with a full report of the facts. Pending the Bureau's decision in such cases, any article consigned to the claimant and believed by the collector to be prohibited from importation shall be detained but not seized.

(Sec. 305, 46 Stat. 688, as amended; 19 U. S. C. 1305)

§ 12.41 Prohibited films.

(a) Importers of films, shall certify on customs Form 3291 that the imported films contain no obscene or immoral matter, nor any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, nor any threat to take the life or inflict bodily harm upon any person in the United States. When imported films are claimed to be free of duty as American goods returned, this certification may be made on customs Form 3311 in the space designated "Remarks" in lieu of on Form 3291.

(b) Films exposed abroad by a foreign concern or individual shall be previewed by a qualified employee of the Customs Service before release. In case such films are imported as undeveloped negatives exposed abroad, the approximate number of feet shall be ascertained by weighing before they are allowed to be developed and printed and such film shall be previewed by a qualified em-

---

[27] "(a) *Prohibition of importation.*—All persons are prohibited from importing into the United States from any foreign country any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States, or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article which is obscene or immoral, or any drug or medicine or any article whatever for the prevention of conception or for causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles, whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry; and all such articles and, unless it appears to the satisfaction of the collector that the obscene or other prohibited articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the package in which such articles are contained, shall be subject to seizure and forfeiture as hereinafter provided: *Provided*, That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subdivision: *Provided further*, That the Secretary of the Treasury may, in his discretion, admit the so-called classics or books of recognized and established literary or scientific merit, but may, in his discretion, admit such classics or books only when imported for noncommercial purposes.

"Upon the appearance of any such book or matter at any customs office, the same shall be seized and held by the collector to await the judgment of the district court as hereinafter provided; and no protest shall be taken to the United States Customs Court from the decision of the collector. Upon the seizure of such book or matter the collector shall transmit information thereof to the district attorney of the district in which is situated the office at which such seizure has taken place, who shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized. Upon the adjudication that such book or matter thus seized is of the character the entry of which is by this section prohibited, it shall be ordered destroyed and shall be destroyed. Upon adjudication that such book or matter thus seized is not of the character the entry of which is by this section prohibited, it shall not be excluded from entry under the provisions of this section.

"In any such proceeding any party in interest may upon demand have the facts at issue determined by a jury and any party may have an appeal or the right of review as in the case of ordinary actions or suits. (Tariff Act of 1930, sec. 305; 19 U. S. C. 1305)

"Whoever, being an officer, agent, or employee of the United States, knowingly aids or abets any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail obscene or indecent publications or representations, or books, pamphlets, papers, writings, advertisements, circulars, prints, pictures, or drawings containing any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or means for preventing conception or procuring abortion, or other articles of indecent or immoral use or tendency, shall be fined not more than $5,000 or imprisoned not more than ten years, or both." (18 U. S. C. 552)

[28] Section 305, Tariff Act of 1930, prohibits the importation of articles for the prevention of conception or causing abortion but does not prohibit the importation of articles containing information or advertisements relative thereto. Sections 1461 and 1462, title 18, United States Code, contain provisions which apply to information and advertisements on these subjects.

ployee of the Customs Service after having been developed and printed.

(c) Any objectionable film shall be detained pending instructions from the Bureau or a decision of the court as to its final disposition.

(Sec. 305, 46 Stat. 688, as amended; 19 U.S.C. 1305)

MERCHANDISE PRODUCED BY CONVICT, FORCED, OR INDENTURED LABOR

§ 12.42 Findings of Commissioner of Customs.

(a) If any appraiser or other principal customs officer has reason to believe that any class of merchandise which is being, or is likely to be, imported into the United States is being produced, whether by mining, manufacture, or other means, in any foreign locality with the use of convict labor, forced labor, or indentured labor under penal sanctions so as to come within the purview of the first sentence of section 307, Tariff Act of 1930,[2] he shall communicate his belief to the Commissioner of Customs. Every such communication shall contain or be accompanied by a statement of substantially the same information as is required in paragraph (b) of this section, if in the possession of the appraiser or other officer or readily available to him.

(b) Any person outside the Customs Service who has reason to believe that merchandise produced in the circumstances mentioned in paragraph (a) of this section is being, or is likely to be, imported into the United States and, if the production is with the use of forced labor or indentured labor under penal sanctions, that merchandise of the same class is being produced in the United States in such quantities as to meet the consumptive demands of the United States may communicate his belief to any appraiser or the Commissioner of Customs. Every such communication shall contain, or be accompanied by, (1) a full statement of the reasons for the belief, (2) a detailed description or sample of the merchandise, and (3) all pertinent facts obtainable as to the production of the merchandise abroad. If the foreign merchandise is believed to be mined, produced, or manufactured with the use of forced labor or indentured labor under penal sanctions, such communication shall also contain (4) detailed information as to the production and consumption of the particular class of merchandise in the United States and the names and addresses of domestic producers likely to be interested in the matter.

(c) If any information filed with an appraiser pursuant to paragraph (b) of this section does not conform with the requirements of that paragraph, the communication shall be returned promptly to the person who submitted it with detailed written advice as to the respects in which it does not conform. If such information is found to comply with the requirements, it shall be transmitted by the appraiser within 10 days to the Commissioner of Customs, together with all pertinent additional information available to the appraiser.

(d) Upon receipt by the Commissioner of Customs of any communication submitted pursuant to paragraph (a) or (b) of this section and found to comply with the requirements of the pertinent paragraph, the Commissioner will cause such investigation to be made as appears to be warranted by the circumstances of the case and the Commissioner or his designated representative will consider any representations offered by foreign interests, importers, domestic producers, or other interested persons.

(e) If the Commissioner of Customs finds at any time that information available reasonably but not conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported, he will promptly advise all collectors of customs accordingly and the collectors shall thereupon withhold release of any such merchandise pending instructions from the Commissioner as to whether the merchandise may be released otherwise than for exportation.

(f) If it is determined on the basis of the foregoing that the merchandise is subject to the provisions of the said section 307, the Commissioner of Customs, with the approval of the Secretary of the Treasury, will publish a finding to that effect in a weekly issue of the Treasury Decisions and in the FEDERAL REGISTER.

(g) Any merchandise of a class specified in a finding made under paragraph (f) of this section, which is imported directly or indirectly from the locality specified in the finding and has not been released from customs custody before the date of publication of such finding in the FEDERAL REGISTER shall be considered and treated as an importation prohibited by section 307, Tariff Act of 1930, unless the importer establishes by satisfactory evidence that the merchandise was not mined, produced, or manufactured in any part with the use of a class of labor specified in the finding.

(h) The following findings made under the authority of section 307, Tariff Act of 1930 are currently in effect with respect to the merchandise listed below:

Merchandise	Country	T. D.
Furniture, clothes hampers, and palm leaf bags.	Ciudad Victoria, Tamaulipas, Mexico.	53403, 54725

(Sec. 307, 46 Stat. 689; 19 U. S. C. 1307)

§ 12.43 Proof of admissibility.

(a) If an importer of any article detained under § 12.42 (e) or (g) desires to contend that the article was not mined, produced, or manufactured in any part with the use of a class of labor specified in section 307, Tariff Act of 1930, he shall submit to the Commissioner of Customs within 3 months after the date the article was imported a certificate of origin in the form set forth below, signed by the foreign seller or owner of the article. If the article was mined, produced, or manufactured wholly or in part in a country other than that from which it was exported to the United States, an additional certificate in such form and signed by the last owner or seller in such other country, substituting the facts of transportation from such other country for the statements with respect to shipment from the country of exportation, shall be so submitted.

CERTIFICATE OF ORIGIN

I, _____, foreign seller or owner of the merchandise hereinafter described, certify that such merchandise, consisting of _____ of _____
(Quantity) (Description)
in _____ bearing
(Number and kind of packages)
the following marks and numbers _____ _____ was mined, produced, or manufactured by _____
(Name)
at or near _____, and was laden on board _____
(Carrier to the United States)
at _____, which departed from
(Place of lading)
(Place of final departure from country of exportation)
on _____; and that _____
(Date)
_____
(Class of labor specified in finding)
was not employed in any stage of the mining, production, or manufacture of the merchandise or of any component thereof.

Dated _____

_____
(Signature)

(b) The importer shall also submit to the Commissioner of Customs within such 3-month period a statement of the ultimate consignee of the merchandise, showing in detail that he had made every reasonable effort to determine the source of the merchandise and of every component thereof and to ascertain the character of labor used in the production of the merchandise and each of its components, the full results of his investigation, and his belief with respect to the use of the class of labor specified in the finding in any stage of the production of the merchandise or of any of its components.

(c) If the certificate or certificates and statement specified in paragraphs (a) and (b) of this section are submitted within the time prescribed and the Commissioner finds that the merchandise is admissible, the collector of customs concerned will be advised to that effect,

[2] "All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to enter at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision. The provisions of this section relating to goods, wares, articles, and merchandise mined, produced, or manufactured by forced labor or/and indentured labor, shall take effect on January 1, 1932; but in no case shall such provisions be applicable to goods, wares, articles, or merchandise so mined, produced, or manufactured which are not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States.

"'Forced labor,' as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily." (Tariff Act of 1930, sec. 307; 19 U. S. C. 1307.)

whereupon he shall release the merchandise upon compliance with the usual

article and report the facts to the appropriate United States attorney. If the

delivered to the nearest representative

of postage or revenue stamps, executed

whereupon he shall release the merchandise upon compliance with the usual entry requirements.

(Sec. 307, 46 Stat. 689; 19 U. S. C. 1307)

§ 12.44 Disposition.

Merchandise detained pursuant to § 12.42 may be exported at any time before it is deemed to have been abandoned as hereinafter provided for. If it has not been exported within 3 months after the date of importation, the collector shall ascertain whether the proof specified in § 12.43 has been submitted within the time prescribed in that section. If the proof has not been so submitted, or if the Commissioner of Customs advises the collector that the proof furnished does not establish the admissibility of the merchandise, the collector shall promptly advise the importer in writing that the merchandise is excluded from entry. Upon the expiration of 60 days after the delivery or mailing of such advice by the collector, the merchandise shall be deemed to have been abandoned and shall be destroyed, unless it has been exported or a protest has been filed as provided for in section 514, Tariff Act of 1930.

(Sec. 307, 46 Stat. 689; 19 U. S. C. 1307)

§ 12.45 Transportation and marketing of prison-labor products.

If any apparent violation of section 1761 or 1762, title 18, United States Code,[20] with respect to any imported article comes to the attention of a collector of customs, he shall detain the article and report the facts to the appropriate United States attorney. If the United States attorney advises the collector that action should be taken against the article, it shall be seized and held pending the receipt of further instructions from the United States attorney or the court.

COUNTERFEIT COINS, OBLIGATIONS, AND OTHER SECURITIES; ILLUSTRATIONS OR REPRODUCTIONS OF COINS OR STAMPS

§ 12.48 Importation prohibited; exceptions to prohibition of importation; procedure.

(a) In accordance with Chapter 25, Title 18, United States Code, any token, disk, or device in the likeness or similitude of any coin of the United States or of a foreign country; counterfeits of coins in circulation in the United States; counterfeited, forged, or altered obligations or other securities of the United States[21] or of any foreign government; or plates, dies, or other apparatus which may be used in making any of the foregoing, when brought into the United States, shall be seized, and delivered to the nearest representative of the United States Secret Service, together with a report of the facts, for appropriate disposition.

(b) In accordance with section 504 of title 18, United States Code, the printing, publishing, or importation or the making or importation of the necessary plates for such printing or publishing for philatelic, numismatic, educational, historical, or newsworthy purposes in articles, books, journals, newspapers, or albums (but not for advertising purposes, except illustrations of stamps and paper money in philatelic or numismatic advertising of legitimate numismatists and dealers in stamps or publishers of or dealers in philatelic or numismatic articles, books, journals, newspapers, or albums) of black and white illustrations of canceled and uncanceled United States postage stamps shall be permitted.

(c) The importation (but not for advertising purposes except philatelic advertising) of motion-picture films, microfilms, or slides, for projection upon a screen or for use in telecasting, of postage and revenue stamps and other obligations and securities of the United States and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation shall be permitted.

(d) Printed matter of the character described in section 504, title 18, United States Code,[22] containing reproductions of postage or revenue stamps, executed in accordance with any exception stated in section 504, or colored reproductions of canceled foreign postage stamps may be admitted to entry. Printed matter containing illustrations or reproductions not executed in accordance with such exceptions shall be treated as prohibited importations. If no application for exportation or assent to forfeiture and destruction is received by the collector within 30 days from the date of notification to the importer that the articles are prohibited, the articles shall be reported to the United States attorney for forfeiture.

MERCHANDISE SUBJECT TO QUOTA PROVISIONS

§ 12.49 Proclamations establishing import quotas.

The provisions of Presidential proclamations establishing tariff-rate quotas[23] or absolute import quotas are published in the Treasury decisions.

§ 12.50 Quota priority.

(a) Merchandise shall not be regarded as entered for purposes of quota priority until an entry therefor has been filed in proper form. Except as otherwise provided for in § 8.59(g) of this chapter, consumption entries and withdrawals for consumption covering quota commodities shall be accepted only during the official office hours when the customhouse is fully staffed and open for the transaction

---

[20] "(a) Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) This chapter shall not apply to agricultural commodities or parts for the repair of farm machinery, nor to commodities manufactured in a Federal, District of Columbia, or State institution for use by the Federal Government, or by the District of Columbia, or by any State or Political subdivision of a State." (18 U. S. C. 1761.)

"(a) All packages containing any goods, wares, or merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package.

"(b) Whoever violates this section shall be fined not more than $1,000, and any goods, wares or merchandise transported in violation of this section or section 1761 of this title shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property, imported into the United States contrary to law." (18 U. S. C. 1762.)

[21] "The term 'obligations or other security of the United States' includes all bonds, certificates of indebtedness, national bank currency, Federal Reserve notes, Federal Reserve bank notes, coupons, United States notes, Treasury notes, gold certificates, silver certificates, fractional notes, certificates of deposit, bills, checks, or drafts for money, drawn by or upon authorized officers of the United States, stamps and other representatives of value, of whatever denomination, issued under any act of Congress, and canceled United States stamps." (18 U. S. C. 8)

[22] Notwithstanding any other provision of this chapter, the following are permitted:

(1) the printing, publishing, or importation, or the making or importation of the necessary plates for such printing or publishing, of black and white illustrations of postage and revenue stamps and other obligations and securities of the United States, and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation for philatelic, numismatic, educational, historical or newsworthy purposes in articles, books, journals, newspapers, or albums (but not for advertising purposes, except illustrations of stamps and paper money in philatelic or numismatic advertising of legitimate numismatists and dealers in stamps or publishers of or dealers in philatelic or numismatic articles, books, journals, newspapers, or albums). Such illustrations, except those of stamps, shall be of a size less than three-fourths or more than one and one-half, in linear dimension, of each part of such obligation or security. The negatives and plates used in making the illustrations shall be destroyed after their final use for the purpose for which they were made.

(2) the making or importation, but not for advertising purposes except philatelic advertising, of motion-picture films, microfilms, or slides, for projection upon a screen or for use in telecasting, of postage and revenue stamps and other obligations and securities of the United States, and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation. No prints or other reproductions shall be made from such films or slides, except for the purpose of paragraph (1), without the permission of the Secretary of the Treasury. (18 U.S.C. 504.)

[23] Modified duty rates under tariff-rate quotas established pursuant to section 350 of the Tariff Act of 1930, as amended and extended, are not applicable to imports from the countries or areas listed under General Headnote 3(d), Tariff Schedules of the United States.

of all customs business. A quota status will not attach to merchandise in any quota period by reason of the presentation of an entry or withdrawal in any prior period.

(b) Merchandise covered by a mail entry or other informal entry shall be regarded as presented for purposes of quota priority when all requirements have been met for the preparation of such an entry.

(c) Merchandise entered for warehouse for which a withdrawal for consumption has been made in the manner stated in § 8.4 (g) of this chapter prior to the opening of any quota period may not be accorded any quota benefit which may become effective after the time of such withdrawal, even though the permit of delivery for the withdrawn merchandise is not delivered to the customs warehouse officer until after the effective date of the quota benefit.

(d) When it is anticipated that entries or withdrawals, or both, covering quantities sufficient to fill a quota will be presented at the opening of the quota period, no entry for consumption or withdrawal for consumption shall be accepted before 12 noon eastern standard time at any port in the eastern standard time belt, 11 a. m. central standard time in the central standard time belt, 10 a. m. mountain standard time in the mountain standard time belt, or 9 a. m. Pacific standard time in the Pacific standard time belt. All importers who are present to file entries or withdrawals when the quota opens shall be given equal opportunity to do so and, if necessary, special arrangements shall be made so that all such entries may be presented at the exact moment of the opening of the quota. No importer shall be permitted to present entries or withdrawals for a quantity in excess of the quota quantity. All entries and withdrawals so presented in proper form shall be considered to have been presented simultaneously even though some time may be required for checking purposes.

(e) When any tariff-rate quota is nearing fulfillment, the exact date, hour, and minute of official acceptance shall be noted on each entry and withdrawal and reported to the Bureau. When any absolute quota is nearing fulfillment and it is necessary to secure Bureau approval before accepting entries or withdrawals thereunder, the time of presentation of each entry or withdrawal shall be reported to the Bureau.

(f) If quota-class merchandise is the subject of an application for release under an immediate delivery permit, the time of presentation of entry shall not precede the time when the importing carrier reaches the limits of the port where entry is to be made. See §§ 8.4 and 8.59 of this chapter.

§ 12.51 Mail importations of merchandise for which an absolute quota has been established.

The following procedure is prescribed for the handling of mail importations of any merchandise for which an absolute quota has been established:

(a) In the absence of other arrangements, when the addressee is located at another port of entry, the importation, regardless of the value, shall be returned to the postmaster for dispatch to the collector of customs in care of the postmaster at the port of destination with customs Form 3511. If the importation exceeds $250 in value, notice on customs Form 3509 to make formal entry shall be sent to the addressee.

(b) If, because of quota restrictions, an entire importation cannot be released at one time, the collector of customs at the port at which such merchandise is to be entered shall so inform the addressee. An Acknowledgment of Delivery by Post Office Department shall be sent to the addressee and he shall be advised that if he desires to secure release of a portion of the merchandise the acknowledgment must be signed by him and returned to the collector of customs. The remainder of the importation, or any portion thereof, shall be released from time to time as it becomes admissible under the quota. Such Acknowledgment of Delivery by Post Office shall be in the following form:

ACKNOWLEDGMENT OF DELIVERY BY POST OFFICE DEPARTMENT

In consideration of the fact that certain articles in a mail importation consisting of _____ (state number) parcels, mailed to me by _____ (name of sender) of _____ (address), on _____ (date of mailing), are subject to quota restrictions under which only a portion of such articles may be admitted to entry at one time, and that the Post Office Department permits no division of the importation before delivery thereof, and since I am desirous of receiving a portion of such articles as they become admissible to entry from time to time under the quota administered by the United States Customs, I hereby agree and acknowledge that delivery of the parcel or parcels to the United States Customs shall be regarded as delivery by the Post Office Department to me.

_____
(Signature of Addressee)

This form may be mimeographed in the quantities needed.

(c) If, in any case, the sender of a mail article has indicated his agreement to the delivery of less than the entire importation at one time, an Acknowledgment of Delivery by Post Office Department need not be secured from the addressee.

(d) The collector may require a deposit of an amount sufficient to defray the expenses of repacking each portion of the merchandise for shipment by mail to the addressee as it becomes admissible to entry under the quota. The shipment shall be under Government frank without new postage. Unless a formal entry or entry by appraisement is required, a mail entry on customs Form 3419 shall be issued and forwarded with the parcel to the postmaster for delivery to the addressee and collection of any duties in the same manner as for any other mail article subject to customs treatment.

(e) If formal entry or entry by appraisement is required, and the addressee is not located in the city where such entry is to be filed, the notice to the addressee shall be accompanied by appropriate entry forms for execution and return to the collector of customs.

(f) If within a reasonable time, but not to exceed 30 days, the addressee fails to indicate to the collector of customs an intention to receive delivery of the articles or a portion thereof in accordance with the notice sent to him by the collector of customs, the importation shall be treated in the same manner as other undeliverable mail.

(g) When any such articles imported in the mails, subject to classification under schedule 8, part 2A, Tariff Schedules of the United States, but subject to quota restrictions, are declared in writing by a resident of the United States upon his return to this country, and a certified copy of such declaration is on file or is presented, the same procedure shall be followed, except that the articles may be released for delivery by the postmaster without the requirement of any other entry under a quota allocation obtained from the Bureau, unless duty is assessable and is to be collected at the time of delivery by mail, in which case a mail entry shall be issued.

FUR-SEAL OR SEA-OTTER SKINS

§ 12.60 Importation prohibited.

The transportation, importation, sale, or possession of the skins of fur seals or sea otters is prohibited if such skins were taken contrary to the provisions of section 2 of the act of February 26, 1944 (58 Stat. 100–104) [36] or, in the case of such skins taken under the authority of the act or any fur-seal agreement, if the skins are not officially marked and certified as required by section 2 of the act. Section 16 [37] makes the act inapplicable to skins taken for scientific purposes under a special permit.

(Secs. 1–17, 58 Stat. 100, 101, as amended, 102–104; 16 U.S.C. 631a–631q)

[36] "It shall be unlawful, except as hereinafter provided, for any citizen or national of the United States, or person owing duty of obedience to the laws or treaties of the United States, or any vessel of the United States, or person belonging to or on such vessel, to engage in pelagic sealing or sea otter hunting in or on the waters of the North Pacific Ocean; or for any person or vessel to engage in sealing; or for any person or vessel to use any port or harbor or other place subject to the jurisdiction of the United States for any purpose connected in any way with the operation of pelagic sealing, sea otter hunting, or sealing; or for any person to transport, import, offer for sale, or have in possession at any port, place, or on any vessel subject to the jurisdiction of the United States, raw, dressed, or dyed skins of sea otters taken contrary to the provisions of this section or, where taken pursuant to section 8 of this Act, not officially marked and certified as having been so taken, or raw, dressed, or dyed skins of fur seals taken in or on the waters of the North Pacific Ocean or on lands subject to the jurisdiction of the United States, except seal skins which have been taken under the authority of this Act or under the authority of the respective parties to any fur-seal agreement and which have been officially marked and certified as having been so taken." (Sec. 2, 58 Stat. 101)

[37] "Nothing contained in this act shall apply to the killing, capturing, pursuing, transportation, importation, offering for sale, or possession of fur seals or sea otters, or the skins thereof, for scientific purposes under special permit issued therefor by the Secretary." (Sec. 16, 58 Stat. 104)

before accepting entries or withdrawals

permits no division of the importation be-

lowed, except that the articles may be

(Sec. 16, 58 Stat. 104)

§ 12.61 Fur-seal or sea-otter skins permitted entry.

(a) Fur-seal or sea-otter skins taken by Indians, Aleuts, or other aborigines under the authority of section 3 of the act,[38] fur-seal skins taken under the authority of the Canadian Government, and fur-seal skins taken on the Pribilof Islands and other specified areas under the authority of section 4 of the act[39] shall be admitted to entry if officially marked and certified as having been lawfully taken and if accompanied by a declaration of the shipper identifying the skins by marks and numbers as those covered by the official certificate.

(b) Fur-seal or sea-otter skins taken in waters or on land not specified in the act or in the fur-seal agreement with Canada[40] or other fur-seal agreement shall be admitted to entry upon the production of evidence satisfactory to the collector that they have been so taken.

(Secs. 1–17, 58 Stat. 100, 101, as amended, 102–104; 16 U.S.C. 631a–631q)

§ 12.62 Enforcement; duties of customs officers.

(a) In accordance with the authority contained in sections 10 and 12[41] of the act, customs officers shall arrest or cause to be arrested persons violating the provisions of the act or of any regulation made pursuant thereto; shall search vessels when there is reasonable cause to believe that such vessels are subject to seizure under the act; shall seize any vessel used or employed or which it appears has been or is about to be used or employed in violation of the act or any regulation made pursuant thereto; and shall seize fur seals and sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed by any person contrary to the provisions of the act or of any regulation made pursuant thereto.

(b) All articles, including vessels and equipment, seized by customs officers for violation of the act shall be turned over to the nearest officer or agent of the Fish and Wildlife Service, Department of the Interior, for appropriate disposition under the act, receipts to be taken in duplicate therefor. One copy of each such receipt shall be transmitted to the Bureau with a detailed report of the facts in the particular case involved.

(Secs. 1–17, 58 Stat. 100, 101, as amended, 102–104; 16 U.S.C. 631a–631q)

§ 12.63 Seal-skin or sea-otter-skin waste.

Seal-skin or sea-otter-skin waste composed of small pieces not large enough to be sewed together and utilized as dressed fur shall not be subject to the requirements of the regulations in this part.

(Secs. 1–17, 58 Stat. 100, 101, as amended, 102–104; 16 U.S.C. 631a–631q)

---

[38] "Indians, Aleuts, or other aborigines dwelling on the American coasts of the waters of the North Pacific Ocean shall be permitted to carry on pelagic sealing or sea otter hunting without the use of firearms from canoes or undecked boats, propelled wholly by paddles, oars, or sails, and not transported by or used in connection with other vessels, and manned by not more than five persons each, in the way heretofore practiced by said Indians, Aleuts, or other aborigines, and shall be permitted to dispose of the skins of fur seals or sea otters so taken as they see fit, but only after such skins have been officially marked and certified as provided in section 2 of this act. The exception made in this section shall not apply to Indians, Aleuts, or other aborigines in the employment of other persons or who shall engage in pelagic sealing or sea otter hunting under contract to deliver the skins to any person." (Sec. 3, 58 Stat. 101)

[39] "In order to continue the proper utilization of the fur-seal herd of the North Pacific Ocean and to carry out the purposes of this Act, the Secretary is authorized to permit sealing on the Pribilof and other islands and on the shores of waters subject to the jurisdiction of the United States, by officers and employees of the Fish and Wildlife Service designated by him and by the natives of the Territory of Alaska, and to adopt suitable regulations governing the same whenever he shall determine that such sealing is necessary or desirable and not inconsistent with preservation of the fur seals of the North Pacific Ocean. The Secretary is also authorized to permit pelagic sealing in the event of emergency circumstances by officers, employees and agents of the United States and by the natives of the Territory of Alaska under such conditions and for such periods as may be agreed upon by consultation between the Government of the United States and the Government of Canada in accordance with the provisions of article II of the Provisional Fur Seal Agreement of 1942." (Sec. 4, 58 Stat. 101)

[40] "The provisions of this Agreement shall apply to all waters of the Bering Sea and the Pacific Ocean, north of the thirtieth parallel of north latitude and east of the one hundred and eightieth meridian." (Art. I, Provisional Fur Seal Agreement of 1942 between the United States and Canada, E. A. S. 415, 58 Stat. 1379)

[41] "Any officer or employee of the Department of the Interior authorized by the Secretary, any naval or other officer designated by the President, any marshal or deputy marshal, any collector or deputy collector of customs, and any other person authorized by law to enforce the provisions of this act shall have power, without warrant, to arrest any person committing a violation of this act or any regulation made pursuant thereto in his presence or view, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; and shall have power, without warrant, to search any vessel within any of the territorial waters of the United States, or any vessel of the United States on the high seas, when he has reasonable cause to believe that such vessel is subject to seizure under this section. Any officer, employee, or other person authorized to enforce the provisions of this act shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this act; and shall have power with a search warrant to search any person, vessel, or place at any time. The judges of the courts established under the laws of the United States, and the United States commissioners, may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All fur seals and sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed contrary to the provisions of this act or of any regulation made pursuant thereto, and any vessel used or employed contrary to the provisions of this act or of any regulation made pursuant thereto, or which it reasonably appears has been or is about to be used or employed in or in aid of the performance of any act forbidden by the provisions of this act or of any regulation made pursuant thereto, together with its tackle, apparel, furniture, appurtenances, and cargo, may, whenever and wherever lawfully found, be seized by any such officer, employee, or other person." (Sec. 10, 58 Stat. 102)

* * * * *

"It shall be the duty of all collectors of customs to enforce the provisions of this act with respect to the importation of the skins of fur seal and sea otter." (Sec. 12, 58 Stat. 103)

PART 13—EXAMINATION AND MEASUREMENT OF CERTAIN PRODUCTS

SUGARS, SIRUPS, AND MOLASSES

Sec.
13.1 Raw sugar; estimated duties; allowance for moisture.
13.2 Weighing, gauging, and sampling.
13.3 Molasses in tank cars.
13.4 Molasses not for extraction of sugar nor for human consumption.
13.5 Gauging of molasses and sirups; storage tanks.
13.6 Taring of sugar containers.
13.7 Sugar closets.
13.8 Retests of sugar, molasses, and sirup.
13.9 Mixing classes of sugar.

PETROLEUM PRODUCTS

13.10 Importation of petroleum products in bulk.

WOOL AND HAIR

13.11 Definitions.
13.12 Invoices.
13.13 Entry; certificate of clean yield; duties; sampling by importer.
13.14 Weighing, sampling, and laboratory testing for clean yield.
13.15 Examination for clean yield by nonlaboratory method.
13.16 Grades of wool, standards, reconsideration of.

COTTON

13.17 Invoices.
13.18 Sampling and stapling.

AUTHORITY: §§ 13.1 to 13.18 issued under R.S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat 72; 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

SUGARS, SIRUPS, AND MOLASSES

§ 13.1 Raw sugar; estimated duties; allowance for moisture.

(a) Estimated duties shall be taken on raw sugar on the basis of not less than 96% polariscopic test,[1] unless the invoice shows that the sugar is of a lower grade than that of the ordinary commercial shipment.

(b) Inasmuch as the absorption of sea water or moisture reduces the polariscopic test of sugar, there shall be no allowance on account of increased weight of sugar importations due to unusual absorption of sea water or other moisture while on the voyage of importation. Any portion of the cargo claimed by the importer to have absorbed sea water or moisture on the voyage of importation shall be weighed, sampled, and tested separately. No such claim shall be considered if made after the sugar claimed to have been damaged has been weighed.

§ 13.2 Weighing, gauging, and sampling.

(a) Sugar and sugar products requiring either weighing or sampling shall be weighed or sampled at the time of unlading. When such merchandise requires both weighing and sampling, these operations shall be performed simultaneously. When dutiable sugar is to be imported in bulk, a full description of the facilities to be used in unlading the sugar shall be submitted to the Bureau as far as possible in advance of the date of importation, and special instructions will be issued as to the methods to be applied in weighing and sampling such sugar.

(b) All dutiable raw sugar shall be weighed without regard to mark. All such sugar in bags shall be conveyed to scales in drafts of uniform size or of a uniform number of bags. Trucks and slings, if weighed, shall be maintained at a uniform weight so that the tare may be accurately established.

(c) In order to permit the taking of a representative general sample, the packages shall be so placed in unlading that the sampler can readily obtain a sample from any package.

(d) No expense incidental to the unlading, transporting, handling, sorting, or arranging of sugar or molasses for convenient weighing, gauging, measuring, sampling, or marking shall be borne by the Government.

(e) Sugar transported from the place of original discharge before samples have been taken shall not be removed from the transporting conveyance until notice of the time of the proposed removal has been given by the inspector to the examiner or sampler in charge.

§ 13.3 Molasses in tank cars.

When molasses is imported in tank cars, the importer shall file with the collector a certificate showing whether there is any substantial difference either in the total sugar[2] or the character of the molasses in the different cars.

§ 13.4 Molasses not for extraction of sugar nor for human consumption.

(a) Pursuant to item 155.40 or item 155.41, Tariff Schedules of the United States,[3] molasses not imported to be used commercially for the extraction of sugar for human consumption[4] may be released upon the deposit of estimated duties at the appropriate rate and liquidation of the covering entry shall be suspended until proof of use is furnished or the time allowed for the production thereof has expired, provided there is filed with the entry or withdrawal a declaration of the person making the entry or withdrawal that the molasses was not imported to be used commercially for the extraction of sugar or for human consumption and that it will not be so used.

(b) Within 3 years from the date of entry (in the case of warehouse entries as well as consumption entries) the importer shall submit a certificate of the superintendent or manager of the manufacturing plant stating the use to which the molasses has been put. If the collector is satisfied that the molasses has not been used in a manufacturing plant but was sold as molasses to the ultimate user, he may accept as proof of the nature of such use a certificate of the wholesaler or other person making the final sale of the product. Such certificate shall state the quantity sold and the purpose for which the seller understood the purchase to be made. All certificates as to use provided for in this paragraph shall identify the molasses with the related customs entry, shall show the number of gallons and the sugar content of the molasses used, and shall state affirmatively the particular use, or alternative uses, each of which is a use other than for human consumption or for the extraction of sugar. If the molasses has not been used in the United States, evidence of exportation or destruction satisfactory to the collector shall be furnished. Certificates as to use and certificates or other documents showing exportation or destruction shall be filed in duplicate and one copy shall be forwarded to the comptroller of customs.

(c) Upon satisfactory proof of use of the molasses for purposes other than for the extraction of sugar or for human consumption or of the exportation or destruction thereof, the entry may be liquidated at the appropriate rate under item 155.40 or item 155.41, Tariff Schedules of the United States. When such proof of use or other disposition of the molasses is not made within 3 years from the date of the entry, or the use shown does not warrant the classification claimed, the entry shall be liquidated at the higher rate applicable under the appropriate item of the Tariff Schedules of the United States.

(d) Entries covering blackstrap molasses, as hereinafter defined, may be accepted and liquidated with duty at the lower rate after the filing of the declaration prescribed in paragraph (a) of this section without compliance with the special requirements of paragraph (b) of this section. For the purposes of the regulations in this part, blackstrap molasses is defined as "final" molasses practically free from sugar crystals, containing not over 58 percent total sugars and having a ratio of

$$\frac{\text{total sugars} \times 100}{\text{Brix}}$$

not in excess of 71. In the event of doubt, an ash determination may be made. An ash content of not less than

---

[1] The expression "testing by the polariscope * * * sugar degrees" occurring in the tariff act is construed to mean the percentage of sucrose contained in the sugar as shown by direct polarimetric estimation.

[2] The expression "total sugars," occurring in the tariff act, is construed to mean the sum of the sucrose (clerget), the raffinose, and the reducing sugars.

[3] "Molasses, including dried molasses, imported for use other than (a) the commercial extraction of sugar, or (b) human consumption * * *." (Item 155.40, Tariff Schedules of the United States.)

"If product of Cuba * * *." (Item 155.41, Tariff Schedules of the United States.)

[4] For the purpose of the regulations in this part, the phrase "molasses not imported to be commercially used for the extraction of sugar, or for human consumption" is construed to include, in addition to molasses used in animal feed and other products not for human consumption, molasses utilized in the production of articles such as yeast, vinegar, alcohol, rum gin, or whisky, in such manner that fermentation or other chemical change alters its character and chemical composition so that molasses or sugar does not appear in the final product. The phrase does not include molasses used for the extraction of sugar or used either in its condition as imported or after undergoing purifying or blending processes, or both, for table purposes or as a sweetening, coloring, or flavoring agent in the production of articles for human consumption.

[7] percent indicates a blackstrap molasses within the meaning of the regulations in this part.

Whenever the actual tare determined on any importation differs

7 percent indicates a blackstrap molasses within the meaning of the regulations in this part.

§ 13.5 Gauging of molasses and sirups; storage tanks.

(a) When molasses or sirup is imported in bulk in tank vessels and is to be pumped or discharged into storage tanks, before the discharging is permitted there shall be filed in the customhouse a certified copy of the plans and gauge table of the storage tank showing all inlets and outlets and stating accurately the capacity in United States gallons per inch of height of the tank from an indicated starting point.

(b) After the discharge is completed, all inlets to the tank shall be carefully sealed and the molasses or sirups left undisturbed for a period not to exceed 20 days to allow for settling before being gauged. When a request for immediate gauging is made in writing by the importer, it shall be allowed by the collector.

§ 13.6 Taring of sugar containers.

(a) In general, there shall be allowed a schedule tare of 2½ pounds per bag for sugar imported in standard bags. When sugar is in other containers, actual tare should be taken. When the collector has reason to doubt the applicability of the schedule tare, he shall verify such schedule tare by taking actual tare. A sugar bag having an area of 1,392 square inches when laid flat (29 inches in width by 48 inches in length) shall be the standard sugar bag for tare purposes. When the area of sugar bags varies by more than 2 percent from the standard area of 1,392 square inches, or the bag is not of the usual textile, the schedule tare shall be increased or diminished in proportion to the amount the area or the weight of the bag varies from that of the standard bag. When the bags bearing any mark differ in size, the tare allowed shall be based upon the average dimensions of the entire number of bags bearing such mark.

(b) If the importer files a written application representing that there is an excessive number of damaged bags in a given importation, giving the approximate percentage of the damaged and sound bags and requesting that actual tare be taken, the collector, if satisfied that the facts are as stated, shall determine the actual tare on the importation. Whenever the actual tare determined on any importation differs from the schedule tare by not more than 5 percent, the schedule tare shall be allowed on such importation. In the event that the actual tare differs from the schedule tare by more than 5 percent, the actual tare shall be the accepted tare.

§ 13.7 Sugar closets.

Sugar closets for samples shall be substantially built and secured by locks furnished by the Bureau. They shall be conveniently located as near as possible to the points of discharge they are intended to serve. They shall be provided by the owner of the premises on which they are located and shall be so situated that sugar, sirup, and molasses stored therein shall not be subjected to extremes of temperature or humidity.

§ 13.8 Retests of sugar, molasses, and sirup.

(a) When the test of the sugar has been determined, the appraiser shall immediately notify the importer on customs Form 6463 of the average test of the importation and also the quantity and test of each lot from which such average test is obtained. If the importer, within 2 official days after such notice has been sent to him by the appraiser, claims an error in the test so reported and requests a retest, such retest may be granted if, on evidence furnished, such claim shall appear to the appraiser to be well founded. Before granting a retest, the appraiser shall require the importer to furnish the settlement tests of the sugar in question, together with any information the appraiser may deem desirable relating to the samples and polarizations used in the settlement tests. In no instance shall a retest be granted when the difference between the appraiser's average test and the settlement test is less than 0.4° S.

(b) In case of retest, the polariscopic test shall be reported on the basis of the average of the test and the retest, unless it can be shown to the satisfaction of the appraiser that either the test or the retest is in error, in which event the test not in error shall be taken as the basis of the report.

(c) In the case of molasses and sirup, a retest shall be granted by the appraiser only when the information in his possession indicates a strong probability of an error. In general, the rules governing the granting of a retest shall be those given above, with the exception that the difference between the appraiser's test and the settlement test shall be shown to be not less than 2 percent total sugars.

§ 13.9 Mixing classes of sugar.

No regulations relative to the weighing, taring, sampling, classifying, and testing of imported sugar shall be so construed as to permit mixing together sugar of different classes, such as centrifugal, beet, molasses, or any sugar different in character from those mentioned, for the purpose of weighing, taring, sampling, or testing.

PETROLEUM PRODUCTS

§ 13.10 Importation of petroleum products in bulk.

(a) When petroleum products subject to duty at a specific rate per gallon are imported in bulk in tank vessels and are to be pumped or discharged into storage tanks, the plans of each tank showing all outlets and inlets and the gauge table for each tank showing its capacity in United States gallons per inch or fraction of an inch of height shall be filed at the customhouse. Such plans and tables shall be certified as correct by the proprietor of the tank. An inspector gauger shall verify the measurements and calibrations shown on the gauge table. One set of such plans and gauge tables thus certified and verified shall be kept on file at the plant of the oil company and shall be available at all times to customs officers. Another verified and certified set shall be filed in the customhouse for use in verifying the inspector's reports. The collector may require such additional sets of plans and gauge tables as he may deem necessary.

(b) On entry for a petroleum product in bulk, the importer shall show the API gravity at 60° Fahrenheit, and the group to which the product belongs, in accordance with the Petroleum Measurement Tables (American Edition), published by the American Society for Testing Materials (1952). The abridged table (Table No. 7) shall be used in the reduction of volume to 60° F. If the exact quantity cannot be determined in advance, entry may be made for "------ United States gallons, more or less." The information required by this paragraph shall also be shown on the permit and summary sheet.

(c) Tanks for the storage of imported petroleum products in bulk may be bonded as warehouses of class 2 if to be used exclusively for the storage of petroleum products belonging or consigned to the proprietor or lessee of the tank. In addition to the documents and bonds required to be filed with the application, the certified plans and gauge tables mentioned above shall be filed.

(d) If a bonded tank is not empty at the time the first importation of bonded petroleum products is to be stored therein, the amount of "free" petroleum products in the tank shall be withdrawn by the proprietor as soon as possible. The request to withdraw shall be in the form of a letter and no formal withdrawal need be filed. "Free" or duty-paid petroleum products shall not thereafter be stored in the tank as long as the tank remains bonded.

(e) Warehouse withdrawals of petroleum products from bonded tanks shall show the API gravity at 60° Fahrenheit, the group to which the product belongs, and the designation of the tank from which it is to be withdrawn. Such withdrawals may be made for "------ United States gallons, more or less."

(f) Allowance for excessive moisture or other impurities may be made in accordance with § 15.7 of this chapter, if it be established that the quantity of water in the importation is excessive and that the noncombustible elements are impurities not usually found in such merchandise.

WOOL AND HAIR

§ 13.11 Definitions.

For the purposes of §§ 13.11 to 13.16:

(a) The term "clean pound" means pound of clean yield as defined in paragraph (b) of this section.

(b) The term "clean yield" means the absolute clean content (that is, all that portion of the merchandise which consists exclusively of wool or hair free of all vegetable and other foreign material, containing by weight 12 percent of moisture and 1.5 percent of material removable from the wool or hair by extraction with alcohol, and having an ash content of not over 0.5 percent by weight), less an allowance, equal by weight to 0.5 percent of the absolute clean content plus 60 percent of the vegetable matter present, but not exceeding 15 percent by weight of the absolute clean content, for

wool or hair that would ordinarily be lost during commercial cleaning operations.

(c) The word "owner" means an actual owner in whose name the entry is filed or whose declaration has been filed as provided for in section 485(d), Tariff Act of 1930.

(d) The word "transferee" means a person who has acquired the right to withdraw merchandise in accordance with section 557(b), Tariff Act of 1930, as amended.

(Schedule 3, Part 1C, Headnote 6, Tariff Schedules of the United States)

§ 13.12 Invoices.

Invoices of wool or hair subject to duty at a rate per clean pound under Schedule 3, Part 1C, Tariff Schedules of the United States, shall show the following detailed information in addition to other information required:

(a) Condition, that is, whether in the grease, washed, pulled, on the skin, scoured, carbonized, burr-picked, willowed, handshaken, or beaten;

(b) Whether free of vegetable matter, practically free, slightly burry, medium burry, heavy burry;

(c) Whether in the fleece, skirted, matchings, or sorted;

(d) Length, that is, whether super combing, ordinary combing, clothing, or filling;

(e) Country of origin, and, if possible, the province, section, or locality of production;

(f) If wool, the type symbol by which it is bought and sold in the country of origin and the grade of each lot covered by the invoice, specifying the standard or basis used, that is, whether United States Official Standards or the commercial term to designate grade in the country of shipment;

(g) Net weight of each lot of wool or hair covered by the invoice in the condition in which it is shipped, and the shipper's estimate of the clean yield of each such lot by weight or by percentage.

(Sec. 481, 46 Stat. 719, sec. 101, 76 Stat. 72; 19 U.S.C. 1481; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

§ 13.13 Entry; certificate of clean yield; duties; sampling by importer.

(a) Each entry covering wool or hair subject to duty at a rate per clean pound under Schedule 3, Part 1 C, Tariff Schedules of the United States, shall show as to each lot of wool or hair covered thereby, in addition to other information required, the total estimated or actual net weight of the wool or hair in its condition as imported, its total estimated clean yield in pounds, and the estimated percentage clean yield. Two copies of each entry covering wool or hair subject to duty at a rate per clean pound under Schedule 3, Part 1 C, Tariff Schedules of the United States shall be filed in addition to the copies otherwise required.

(b) Duties on wool or hair subject to duty at a rate per clean pound under Schedule 3, Part 1 C, Tariff Schedules of the United States may be estimated at the time of entry on the basis of the clean yield shown on the entry if the collector is satisfied that the revenue will be properly protected. Liquidated duties shall be determined on the basis of the appraiser's final report of clean yield. Estimated and liquidated duties on wool or hair tested for clean yield pursuant to the provisions of § 13.14, and withdrawn for consumption without a change in condition which affects the duties and in a quantity less than an entire sampling unit as defined in § 13.14(a)(1) shall be determined on the basis of an appropriate adjustment of the estimated percentage clean yield shown on the entry for the wool or hair included in each of the lots covered by the withdrawal. This adjustment shall be made by increasing or decreasing such estimated percentage clean yield of each lot by the difference between the percentage clean yield of the related sampling unit, as reported by the appraiser, and the weighted average percentage clean yield for the sampling unit, as computed from the estimated percentages clean yield and net weights shown on the entry for the lots included in the sampling unit.

(c) [Reserved]

(d) The importer of record, the owner, or the transferee, as the case may be, may be permitted after entry to draw samples under customs supervision in reasonable quantities from the packages of wool or hair designated for examination, provided the bales or bags are properly repacked and repaired by such person. Any samples so withdrawn shall be weighed and a record showing the quantities thereof shall be made and filed with the related entry.

(e) Duty shall be assessed and collected on samples taken pursuant to the provisions of paragraph (d) of this section or §§ 13.14, 13.15, or 13.16, unless an exemption or remission is obtained by compliance with an applicable provision of the law or regulations. The duty shall be assessed upon the samples in accordance with their condition at the time of importation, except as provided for in section 562, Tariff Act of 1930, as amended. The collection of duty on the samples may be postponed when the importation concerned is not entered for consumption until the withdrawal of the merchandise from which the samples are taken, or until an application for the destruction or abandonment of such merchandise has been accepted pursuant to an appropriate provision of the law or regulations.

(Sec. 101, 76 Stat. 72; Sch. 3 pt. 1C, hdnote. 6, Tariff Schedules of the United States)

§ 13.14 Weighing, sampling, and laboratory testing for clean yield.

(a) When used in this section, the terms:

(1) "Sampling unit" means all the similar packages covered by one entry or withdrawal containing wool or hair of the same kind or same general condition and character, produced in the same country, packed in substantially the same manner, and entered as or found to be subject to the same rate of duty.

(2) "General sample" means the composite of the individual portions of wool or hair drawn from a sampling unit.

(b) The following shall be weighed, sampled, and tested for clean yield, as prescribed in this section, unless such sampling or testing is not feasible: (1) All importations of wool or hair, subject to duty at a rate per clean pound under Schedule 3, Part 1C, Tariff Schedules of the United States, except importations entered directly for manipulation under the provisions of section 562, Tariff Act of 1930, as amended, or for manufacture under the provisions of section 311, Tariff Act of 1930; (2) all imported wool or hair manipulated under the provisions of such section 562 and dutiable after manipulation as wool or hair, at a rate per clean pound under Schedule 3, Part 1C, Tariff Schedules of the United States; and (3) such other imported wool or hair as the collector may designate. When an original sampling unit has been weighed, sampled, and tested in accordance with this section and a part of such unit is covered by a transfer made pursuant to section 557(b), Tariff Act of 1930, as amended, the percentages clean yield of the part covered by the transfer and of the part not so covered shall be computed on the basis of the original customs weights and test, and the invoice data related to the respective parts. When part of such an original sampling unit is exported from continuous customs custody without having been manipulated as provided for in section 562, Tariff Act of 1930, as amended, the percentage clean yield of the part not exported shall be determined, in the discretion of the collector of customs, either on the basis of a new determination by reweighing, resampling, and retesting, or by a computation as described in the preceding sentence, for either the exported or the remaining part.

(c) A general sample shall be taken from each sampling unit, unless it is not feasible to obtain a representative general sample of the wool or hair in a sampling unit or to test such a sample in accordance with the provisions of this section, in which case the clean yield of the wool or hair in such sampling unit shall be estimated as provided for in § 13.15. At the request of the importer of record, the owner, or the transferee, as the case may be, two general samples may be taken from a sampling unit if the taking and testing of a second general sample is feasible. If two general samples are taken, one general sample shall be held for use in making a second test to determine the clean yield of the wool or hair if such a test is requested in accordance with the provisions of paragraph (e) of this section, or if a second test is found desirable by the appraiser or the chief chemist.

(d) The clean yield of all general samples taken in accordance with this section shall be determined by test in a customs laboratory, unless it is found that it is not feasible to test such a sample and obtain a proper finding of percentage clean yield. A report of the percentage clean yield of each general sample as established by the test or a statement of the reason for not testing a general sample shall be forwarded to the appraiser. If the report is not received by the appraiser within 1 month

after the date of entry, the clean yield

after the date of entry, the clean yield of the wool or hair shall be estimated as provided for in § 13.15 except that in the case of wool or hair received under an entry for immediate transportation, an estimate of clean yield, as provided for in § 13.15 shall be made if the laboratory report of clean yield is not received by the appraiser within 1 month from the date on which the last of the merchandise is received. However, the appraiser may withhold his finding of clean yield until the laboratory report is received and predicate his finding on that report if so requested in writing by the importer of record, the owner, or the transferee, as the case may be. An estimate of clean yield shall be made pursuant to the provisions of this paragraph only when an adequate quantity of the wool or hair is available for examination.

(e) The appraiser shall promptly notify the importer of record, the owner, or the transferee, as the case may be, by mail of the percentage clean yield found by him. If such person is dissatisfied with the appraiser's finding, he may file with the appraiser a written request in duplicate for another laboratory test for percentage clean yield. Such request shall be filed within 14 calendar days after the date of mailing of the notice of the appraiser's finding of clean yield. The request shall be granted if it appears to the appraiser to be made in good faith and if a second general sample, as provided for in paragraph (c) of this section is available for testing, or if all packages, or, in the opinion of the Bureau, an adequate number of the packages, represented by the general sample are available and in their original imported condition. The second test shall be made upon the second general sample, if such a sample is available. If the second general sample is not available, the packages shall be reweighed, resampled, and tested in accordance with the provisions of this section. All costs and expenses of such operations, exclusive of the compensation of customs officers, shall be borne by the person who requested the further test. Such person may be present during such resampling and testing. If he is dissatisfied with the results of the second laboratory test, or if a second laboratory test is not feasible, the wool or hair may be retested subject to the conditions and in the manner provided for in § 13.15(c).

(f) In the determination of the clean yield of any general sample taken in accordance with this section, an allowance in weight shall be made for wool or hair fibers which it is estimated will be lost ordinarily during commercial cleaning operations. For each general sample the scoured yield of the imported wool or hair and the quantity of vegetable matter present in the general sample shall be ascertained. The weight of the vegetable matter shall be subtracted from the weight of the scoured yield, and the difference shall be considered the weight of the clean fibers present in the imported wool or hair. The allowance for the quantity of wool or hair fibers estimated to be lost ordinarily during commercial cleaning operations shall be computed by making a base allowance of five one-thousandths (0.005) of the ascertained weight of the clean fibers present in the imported wool or hair and an additional allowance of six-tenths (0.6) of a pound for each pound of ascertained vegetable matter: *Provided*, That the combined allowance for such estimated commercial cleaning loss of fibers shall not exceed 15 per centum of the ascertained weight of the clean wool or hair fibers.

(Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

§ 13.15 Examination for clean yield by nonlaboratory method.

(a) Importations of wool or hair dutiable at a rate per clean pound under Schedule 3, Part 1, Subpart C, Tariff Schedules of the United States, including all imported wool or hair withdrawn for consumption after being manipulated under the provisions of section 562, Tariff Act of 1930, as amended, and dutiable at a rate per clean pound under Schedule 3, Part 1C, Tariff Schedules of the United States after such manipulation, when not tested under the provisions of § 13.14, shall be examined by the appropriate customs officer, who shall estimate and report the percentage clean yield of each lot.

(b) The appraiser shall promptly notify the importer of record, the owner, or the transferee, as the case may be, by mail of the percentage clean yield estimated by the appropriate customs officer. If such person is dissatisfied with the estimate and, within the time and under the conditions prescribed in § 13.14 (e), files a request for a new examination of the wool or hair and a reestimation of its percentage clean yield, such request shall be granted, provided the request appears to the appraiser to be made in good faith. The aforementioned importer, owner, or transferee shall be given an opportunity to inspect those of the packages which are in dispute.

(c) If the person who requested reestimation of the percentage clean yield is dissatisfied with such reestimation, he may, within 14 calendar days after the date of mailing of the notice of the appraiser's findings upon reexamination, file a written request that a test be made to determine the percentage clean yield of the wool or hair. The appraiser shall then cause a representative quantity of the wool or hair in dispute to be selected and tested by a commercial method approved by the Bureau. The yield, as determined by such commercial test, shall be suitably adjusted to coincide with the definition of clean yield in § 13.11(a). Such test shall be made under the supervision and direction of the appraiser at an establishment approved by him, and the expense thereof, including the actual expense of travel and subsistence of customs officers but not their compensation, shall be paid by the person who requested the test.

(d) If the appraiser is not satisfied with the results of any test provided for in § 13.14 (e) or in paragraph (c) of this section, he may, within 14 calendar days after receiving the report of the results of such test, proceed to have another test made upon a suitable sample of the wool or hair at the expense of the Government. When the appraiser is proceeding to have another test made, he shall, within the 14-day period provided for in this paragraph, notify the importer of record, owner, or transferee, as the case may be, by mail of that fact. The appraiser shall base his final report of clean yield upon a consideration of all of the tests and examinations made in connection with the wool or hair concerned.

(Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

§ 13.16 Grades of wool, standards, reconsideration of.

The appraiser shall cause wool dutiable at a rate per clean pound under Schedule 3, Part 1C, Tariff Schedules of the United States, to be examined for grade.[7] If classification of the wool at the grade or grades determined on the basis of this examination will result in the assessment of duty at a rate higher than the rate provided for wool of the grade or grades stated in the entry, the appraiser shall promptly notify, by mail, the importer of record, the owner, or the transferee, as the case may be. If such importer of record, owner, or transferee is dissatisfied with the appraiser's findings as to the grade or grades of the wool, he may, within 14 calendar days after the date of mailing of the notice of the appraiser's findings, file in duplicate a written request for another determination of grade or grades, stating the reason for the request. Notice of the appraiser's findings on the basis of the reexamination of the wool shall be mailed to the person who requested the reexamination.

(Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

Cotton

§ 13.17 Invoices.

Invoices of cotton provided for in item 300.10, 300.15, or 300.20, Tariff Schedules of the United States, shall show the following detailed information in addition to other required information:

(a) One of the following statements regarding each lot of cotton covered by the invoice:

(1) This is harsh or rough cotton under ¾ inch in staple length.

(2) The staple length of this cotton is under 1⅛ inches. (This statement is not to be used if subparagraph (1) of this paragraph is applicable.)

(3) The staple length of this cotton is 1⅛ inches or more and under 1⅜ inches.

(4) This cotton is harsh or rough cotton (other than cotton of perished staple, grabbots, and cotton pickings), white in color, and has a staple length of 1$^{5}/_{32}$ inches or more and under 1⅜ inches.

(5) The staple length of this cotton is 1⅜ inches or more and under 1$^{11}/_{16}$ inches.

---

[7] "The standards for determining grades of wool shall be those which are established from time to time by the Secretary of Agriculture pursuant to law and which are in effect on the date of importation of the wool." (Schedule 3, part 1C, headnote 2, Tariff Schedules of the United States.)

(6) The staple length of this cotton is $1\frac{11}{16}$ inches or more.

(b) The name of the country of origin and, if practicable, the name of the province or other subdivision of the country of origin in which the cotton was grown.

(c) The variety of the cotton, such as Karnak, Gisha, Pima, Tanguis, etc.

(Sec. 481, 46 Stat. 719; 19 U. S. C. 1481)

§ 13.18 Sampling and stapling.

(a) For the purposes of this section and § 13.17, "staple length" means the length of the fibers in a particular quantity of cotton designated in terms expressing the measurement by the inch or fraction thereof of a representative portion of the quantity in accordance with the Official Cotton Standards of the United States for length of staple, as established by the Secretary of Agriculture.

(b) For determining the staple length of any lot of cotton for any customs purposes, samples of the lot shall be taken in accordance with commercial practice.

(c) The appraiser shall have one or more samples of each sampled bale of cotton stapled by a qualified examiner (including any employee of the Department of Agriculture properly designated by the Bureau for the purpose), and shall promptly transmit by mail to the person who would be liable for duties, if any are or might be payable, a notice of the results determined.

(d) If the person notified is dissatisfied with the appraiser's determination, he may file with the appraiser, within 14 calendar days after the date of mailing of the notice, a written request in duplicate for a redetermination of the staple length. Each such request shall include a statement of the claimed staple length for the cotton in question and a clear statement of the basis for the claim. The request shall be granted if it appears to the appraiser to be made in good faith. In making the redetermination of staple length, the appraiser may obtain an opinion of a board of cotton examiners of the United States Department of Agriculture, if he deems such action advisable. All expenses occasioned by any redetermination of staple length, exclusive of the compensation of customs officers, shall be reimbursed to the Government by the person requesting the redetermination.

PART 14—APPRAISEMENT

Sec.

14.1 Order of appraisement; designation of packages for examination.
14.2 Examination of merchandise; procedure.
14.3 Appraisement of merchandise; determination of value.
14.4 Furnishing information as to values.
14.5 Coal-tar products (cyclic organic chemicals having a benzenoid quinoid, or modified benzenoid structure).

PROCEDURE UNDER ANTIDUMPING ACT

14.6 Suspected dumping.
14.7 Fair value.
14.8 Determination of fact or likelihood of sales at less than fair value; determination of injury; finding of dumping.
14.9 Action by the appraiser.
14.10 Release of merchandise; bond.
14.11 Conversion of currencies.
14.12 Modification or revocation of finding.
14.13 Publication of findings.

AUTHORITY: §§ 14.1 to 14.13 issued under R. S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 14.1 Order of appraisement; designation of packages for examination.

(a) The designation of packages or quantities of merchandise for examination shall be deemed an order of appraisement for the purposes of section 488, Tariff Act of 1930.[1]

(b) Not less than 1 package of every 10 packages of merchandise shall be designated by the collector to be examined for the purpose of appraisement, unless a special regulation permits a less number of packages to be examined.[2] Collectors of customs are specially authorized to designate for examination a less number of packages than one package of every ten packages, but not less than one package of every invoice, in the case of any merchandise which is (1) imported in packages the contents and values of which are uniform, or (2) imported in packages the contents of which are identical as to character although differing as to quantity and value per package.

(c) This section shall not be construed to preclude the examination of packages in addition to the minimum number hereby permitted to be examined if the collector or the appraiser shall deem it necessary that a greater number of packages be examined.

(Secs. 488, 499, 46 Stat. 725, 728, as amended; 19 U.S.C. 1488, 1499)

§ 14.2 Examination of merchandise; procedure.

(a) The appraiser shall cause to be examined all merchandise designated by the collector and such additional quantities, packages, or parts thereof as he may deem necessary.[3] Such merchandise shall be examined at the public stores, except as hereinafter provided for. With the consent of the appraiser, merchandise which cannot conveniently be examined at the public stores may be examined on the wharf, at the importer's premises, or at any other suitable place. Matches and other inflammable, explosive, or dangerous articles shall be examined at the importer's

---

[1] "The collector within whose district any merchandise is entered shall cause such merchandise to be appraised." (Tariff Act of 1930, sec. 488; 19 U. S. C. 1488)

[2] "• • • The collector shall designate the packages or quantities covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise and shall order such packages or quantities to be sent to the public stores or other places for such purpose. Not less than one package of every ten packages of merchandise shall be so designated unless the Secretary of the Treasury, from the character and description of the merchandise, is of the opinion that the examination of a less proportion of packages will amply protect the revenue and by special regulation or instruction, the application of which may be restricted to one or more individual ports or to one or more importations or one or more classes of merchandise, permit a less number of packages to be examined. All such special regulations or instructions shall be published in the weekly Treasury Decisions within fifteen days after issuance and before the liquidation of any entries affected thereby. The collector or the appraiser may require such additional packages or quantities as either of them may deem necessary. • • •" (Tariff Act of 1930, sec. 499, as amended; 19 U. S. C. 1499)

[3] "It shall be the duty of the appraiser under such rules and regulations as the Secretary of the Treasury may prescribe—

"(1) To appraise the merchandise in the unit of quantity in which the merchandise is usually bought and sold by ascertaining or estimating the value thereof by all reasonable ways and means in his power, any statement of cost or cost of production in

premises or other suitable place, but not at the public stores.

(b) When, upon the request of the importer, merchandise is examined elsewhere than at the public stores, or at a place other than a port of entry or a customs station at which a customs officer is permanently located, any additional expense, including actual expenses of travel and subsistence but not the salary of the examining officer, shall be paid by the importer, except that no collection need be made if the total amount chargeable against one importer for one day amounts to less than 50 cents. If the total amount chargeable amounts to 50 cents or more, but less than $1, a minimum charge of $1 shall be made.

(c) Before permitting the removal of merchandise for examination elsewhere than at the public stores, wharf, or other place in charge of a customs officer, the collector shall require the importer to execute a bond on customs Form 7551, 7553, or other appropriate form, containing a condition for the return of the merchandise if demand for return is made after its release from customs custody upon the completion of final examination for purposes of appraisement. The bond shall contain added conditions that the importer shall hold the merchandise at the place to which it has been removed for examination until it has been released from customs custody; that, if such merchandise has been corded and sealed, the cords and seals shall be kept intact until removed by customs officers; and that the importer shall transfer the merchandise at any time before such release to such place as the collector may direct.

(d) If the collector deems it necessary, the packages shall be corded and sealed by a customs officer before being removed from the place of unlading and a caution notice, customs Form 6087, shall be securely affixed thereto. The packages shall be opened only in the presence of a customs officer authorized to examine their contents, and the opening and closing of the packages shall be done by labor furnished by the importer.

(e) Upon application by the importer or owner, machinery, altars, shrines, and other articles which must be set up or assembled prior to examination may be examined and appraised at the mill, factory, or other suitable place after being set up or assembled. In all such cases a bond on customs Form 7551, 7553, or other appropriate form shall be taken; the collector also may require that a deposit be made of the estimated additional expense. The packages need not be corded and sealed, but the appraiser may make such preliminary examination as he deems necessary to identify the merchandise with the invoice. After the bond has been filed and any necessary preliminary examination has been made, the collector may permit the merchandise to be removed to the place at which it is to be set up or assembled for examination. Within 90 days after such removal, unless an extension has been applied for and granted by the collector, the importer shall notify the collector or appraiser that the machinery or other articles have been set up or assembled and are ready for examination, whereupon final examination shall be made and the appraisement completed.

(f) When merchandise covered by an immediate transportation entry has been authorized by the collector to be delivered to a place outside a port of entry, as provided for in § 18.11 (c) of this chapter, the provisions of paragraphs (a) to (e), inclusive, of this section shall be complied with to the same extent as would have been required if the merchandise had been delivered to the port of entry designated in the transportation entry and then authorized to be examined elsewhere than at the public stores, wharf, or other place where a customs officer is regularly stationed.

(g) When deemed sufficient for the purposes, samples of merchandise may be used for examination and appraisement. Representative samples shall be selected by a customs sampler or other authorized customs officer from the merchandise or packages designated by the collector for examination, and shall be properly marked to insure identification and retained as long as the appraiser shall deem necessary.

(h) If the appraiser requires samples from packages not designated for examination, he shall request the importer, on customs Form 6525, to submit them and execute the certificate on the reverse side of customs Form 6525.

(i) The tobacco examiner at the port of New York shall have general supervision of the examination of all cigars or cigarillos, which may be made or derived in whole or in part of Cuban articles. In addition, he shall have general supervision of the examination of tobacco which may be of Cuban origin when imported in the districts of:

(1) Maine and New Hampshire.
(2) Vermont.
(4) Massachusetts.
(5) Rhode Island.
(6) Connecticut.
(7) St. Lawrence.
(8) Rochester.
(9) Buffalo.
(10) New York.
(11) Philadelphia.
(12) Pittsburgh.
(13) Maryland.
(14) Virginia.
(38) Michigan.
(39) Chicago.
(40) Indiana.
(41) Ohio.
(42) Kentucky.

The tobacco examiner at the port of Tampa shall have general supervision of the examination of tobacco (not including cigars or cigarillos) which may be of Cuban origin when imported in any district not specified above.

(Secs. 488, 499, 46 Stat. 725, 728, as amended; 19 U.S.C. 1488, 1499)

§ 14.3 Appraisement of merchandise; determination of value.

(a) Except as otherwise herein provided for, the value of imported merchandise for appraisement purposes shall be determined in accordance with the provisions of new section 402, Tariff Act of 1930, added by section 2 (a) of the Customs Simplification Act of 1956.[4] The value of imported articles specified in the final list published pursuant to section

---

any invoice, affidavit, declaration, or other document to the contrary notwithstanding;

"(2) To ascertain the number of yards, parcels, or quantities of the merchandise ordered or designated for examination;

"(3) To ascertain whether the merchandise has been truly and correctly invoiced;

"(4) To describe the merchandise in order that the collector may determine the dutiable classification thereof; and

"(5) To report his decisions to the collector." (Tariff Act of 1930, sec. 500 (a); 19 U. S. C. 1500 (a))

"* * * If any package is found by the appraiser to contain any article not specified in the invoice and he reports to the collector that in his opinion such article was omitted from the invoice with fraudulent intent on the part of the seller, shipper, owner, or agent, the contents of the entire package in which such article is found shall be liable to seizure, but if the appraiser reports that no such fraudulent intent is apparent then the value of said article shall be added to the entry and the duties thereon paid accordingly. If a deficiency is found in quantity, weight, or measure in the examination of any package, report thereof shall be made to the collector, * * *." (Tariff Act of 1930, sec. 499, as amended; 19 U. S. C. 1499)

[4] (a) Basis—Except as otherwise specifically provided for in this act, the value of imported merchandise for the purposes of this act shall be—

(1) The export value, or

(2) If the export value cannot be determined satisfactorily, then the United States value, or

(3) If neither the export value nor the United States value can be determined satisfactorily, then the constructed value;

except that, in the case on an imported article subject to a rate of duty based on the American selling price of a domestic article, such value shall be—

(4) The American selling price of such domestic article.

(b) Export value. For the purposes of this section, the export value of imported merchandise shall be the price, at the time of exportation to the United States of the merchandise undergoing appraisement, at which such or similar merchandise is freely sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, for exportation to the United States, plus, when not included in such price, the cost of all containers and coverings of whatever nature and all other expenses incidental to placing the merchandise in condition, packed ready for shipment to the United States.

(c) United States value. For the purposes of this section, the United States value of imported merchandise shall be the price, at the time of exportation to the United States of the merchandise undergoing appraisement, at which such or similar merchandise is freely sold or, in the absence of sales, offered for sale in the principal market of the United States for domestic consumption, packed ready for delivery, in the usual wholesale quantities and in the ordinary course of trade, with allowances made for—

(1) Any commission usually paid or agreed to be paid, or the addition for profit and general expenses usually made, in connection with sales in such market of imported merchandise of the same class or kind as the merchandise undergoing appraisement;

(2) The usual costs of transportation and insurance and other usual expenses incurred with respect to such or similar merchandise from the place of shipment to the place of delivery, not including any expense provided for in subdivision (1); and

(3) The ordinary customs duties and other Federal taxes currently payable on such or similar merchandise by reason of its importation, and any Federal excise taxes on,

(Footnote 4—Continued)

or measured by the value of, such or similar merchandise, for which vendors at wholesale in the United States are ordinarily liable.

If such or similar merchandise was not so sold or offered at the time of exportation of the merchandise undergoing appraisement, the United States value shall be determined, subject to the foregoing specifications of this subsection, from the price at which such or similar merchandise is so sold or offered at the earliest date after such time of exportation but before the expiration of ninety days after the importation of the merchandise undergoing appraisement.

(d) Constructed value. For the purposes of this section, the constructed value of imported merchandise shall be the sum of—

(1) The cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise undergoing appraisement which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

(2) An amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise undergoing appraisement which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, for shipment to the United States; and

(3) The cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise undergoing appraisement in condition, packed ready for shipment to the United States.

(e) American Selling Price. For the purposes of this section, the American selling price of any article produced in the United States shall be the price, including the cost of all containers and coverings of whatever nature and all other expenses incidental to placing the article in condition packed ready for delivery, at which such article is freely sold or, in the absence of sales, offered for sale for domestic consumption in the principal market of the United States, in the ordinary course of trade and in the usual wholesale quantities, or the price that the manufacturer, producer, or owner would have received or was willing to receive for such article when sold for domestic consumption in the ordinary course of trade and in the usual wholesale quantities, at the time of exportation of the imported article.

(f) Definitions. For the purposes of this section—

(1) The term "freely sold or, in the absence of sales, offered for sale" means sold or, in the absence of sales, offered—

(A) To all purchasers at wholesale, or

(B) In the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise,

without restrictions as to the disposition or use of the merchandise by the purchaser, except restrictions as to such disposition or use which (i) are imposed or required by law, (ii) limit the price at which or the territory in which the merchandise may be resold, or (iii) do not substantially affect the value of the merchandise to usual purchasers at wholesale.

(2) The term "ordinary course of trade" means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise undergoing appraisement, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise undergoing appraisement.

(3) The term "purchasers at wholesale" means purchasers who buy in the usual wholesale quantities for industrial use or for resale otherwise than at retail; or, if there are no such purchasers, then all other purchasers for resale who buy in the usual wholesale quantities; or, if there are no purchasers in either of the foregoing categories, then all other purchasers who buy in the usual wholesale quantities.

(4) The term "such or similar merchandise" means merchandise in the first of the following categories in respect of which export value, United States value, or constructed value, as the case may be, can be satisfactorily determined:

(A) The merchandise undergoing appraisement and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise undergoing appraisement.

(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise undergoing appraisement.

(C) Merchandise (i) produced in the same country and by the same person as the merchandise undergoing appraisement, (ii) like the merchandise undergoing appraisement in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise undergoing appraisement.

(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

(5) The term "usual wholesale quantities", in any case in which the merchandise in respect of which value is being determined is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.

(g) Transactions Between Related Persons. (1) For the purposes of subsection (c) (1) or (d), as the case may be, a transaction directly or indirectly between persons specified in any one of the subdivisions in paragraph (2) of this subsection may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise undergoing appraisement. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then, for the purposes of subsection (d), the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the subdivisions in paragraph (2).

(2) The persons referred to in paragraph (1) are:

(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;

(B) Any officer or director of an organization and such organization;

(C) Partners;

(D) Employer and employee;

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting stock or shares of any organization and such organization; and

(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person. (Section 402, Tariff Act of 1930, as amended; 19 U. S. C. 1401a.)

[a] Sec. 6. (a) The Secretary of the Treasury shall determine and make public a list of the articles which shall be valued in accordance with section 402a, Tariff Act of 1930, as amended by this act, as follows:

As soon as practicable after the enactment of this act the Secretary shall make public a preliminary list of the imported articles which he shall have determined, after such investigation as he deems necessary, would have been appraised in accordance with section 402 of the Tariff Act of 1930, as amended by this act, at average values for each article which are 95 (or less) per centum of the average values at which such article was actually appraised during the fiscal year 1954. If within sixty days after the publication of such preliminary list any manufacturer, producer, or wholesaler in the United States presents to the Secretary his reason for belief that any imported articles not specified in such list and like or similar to articles manufactured, produced, or sold at wholesale by him would have been appraised in accordance with such section 402 at average values which are 95 (or less) per centum of the average values at which they were or would have been appraised under section 402a, Tariff Act of 1930, as amended by this act, the Secretary shall cause such investigation of the matter to be made as he deems necessary. If in the opinion of the Secretary the reason for belief is substantiated by the investigation, the articles involved shall be added to the preliminary list and such list, including any additions so made thereto, shall be published as a final list. Every article so specified in the final list which is entered, or withdrawn from warehouse, for consumption on or after the thirtieth day following the date of publication of the final list shall be appraised in accordance with the provisions of section 402a, Tariff Act of 1930, as amended by this act. (Sec. 6 (a) 70 Stat. 948.)

and amended.[b] With respect to any article described on the final list in terms of unit values, the unit value is to be computed in accordance with section 402a for the purpose of ascertaining whether the article undergoing appraisement is included on the list. If the value so computed brings the article within the scope of the value on the final list, such

[b] "(a) BASIS. For the purposes of this Act the value of imported articles designated by the Secretary of the Treasury as provided for in section 6 (a) of the Customs Simplification Act of 1956 shall be—

"(1) The foreign value or the export value, whichever is higher;

"(2) If the appraiser determines that neither the foreign value nor the export value can be satisfactorily ascertained, then the United States value;

"(3) If the appraiser determines that neither the foreign value, the export value, nor the United States value can be satisfactorily ascertained, then the cost of production;

"(4) In the case of an article with respect to which there is in effect under section 336 a rate of duty based upon the American selling price of a domestic article, then the American selling price of such article.

* * * * *

(Footnote 4b—Continued)

"(c) *Foreign value.* The foreign value of imported merchandise shall be the market value or the price at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale for home consumption to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade, including the cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States.

"(d) *Export value.* The export value of imported merchandise shall be the market value or the price at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade, for exportation to the United States, plus, when not included in such price, the cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States.

"(e) *United States value.* The United States value of imported merchandise shall be the price at which such or similar imported merchandise is freely offered for sale, for domestic consumption packed ready for delivery, in the principal market of the United States to all purchasers, at the time of exportation of the imported merchandise, in the usual wholesale quantities and in the ordinary course of trade, with allowance made for duty, cost of transportation and insurance, and other necessary expenses from the place of shipment to the place of delivery, a commission not exceeding 6 per centum, if any had been paid or contracted to be paid on goods secured otherwise than by purchase, or profits not to exceed 8 per centum and a reasonable allowance for general expenses, not to exceed 8 per centum on purchased goods.

"(f) *Cost of production.* For the purpose of this title the cost of production of imported merchandise shall be the sum of—

"(1) The cost of materials of, and of fabrication, manipulation, or other process employed in manufacturing or producing such or similar merchandise, at a time preceding the date of exportation of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business;

"(2) The usual general expenses (not less than 10 per centum of such cost) in the case of such or similar merchandise;

"(3) The cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and

"(4) An addition for profit (not less than 8 per centum of the sum of the amounts found under paragraphs (1) and (2) of this subdivision) equal to the profit which ordinarily is added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the production or manufacture of merchandise of the same class or kind.

"(g) *American selling price.* The American selling price of any article manufactured or produced in the United States shall be the price, including the cost of all containers and coverings of whatever nature and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for delivery, at which such article is freely offered for sale for domestic consumption to all purchasers in the principal market of the United States, in the ordinary course of trade and in the usual wholesale quantities in such market, or the price that the manufacturer, producer, or owner would have received or was willing to receive for such merchandise when sold for domestic consumption in the ordinary course of trade and in the usual wholesale quantities, at the time of exportation of the imported article." (Tariff Act of 1930, sec. 402a, as amended; 19 U. S. C. 1402)

[5] If the merchandise is shipped directly by water from the country of export, the date of the sailing of the vessel is the date of exportation. Since the act of exportation is not complete until the merchandise finally leaves the jurisdiction of the exporting country, if a vessel with merchandise on board sails from two or more ports, or more than once from the same port, of the exporting country, whether or not stopping on the intervening voyage at a port of another jurisdiction, or if the merchandise is transshipped in another jurisdiction and subsequently reenters the jurisdiction of the exporting country on another vessel, or if the merchandise is transshipped to another vessel in the same jurisdiction, the date the vessel on which the merchandise finally leaves the exporting country sails from the last port thereof is the date of exportation. When the merchandise is shipped from an interior country through the ports of another country or from a country contiguous to the United States, the date of exportation is the date on which the merchandise crosses the border of the country of exportation and passes beyond the control of the government of such country. These provisions apply also to merchandise shipped directly by air.

[6] Dutiable charges are such costs and other expenses as are incidental to placing the merchandise in condition, packed ready for shipment to the United States. Such charges must represent the actual cost and be confined solely to merchandise exported to the United States. Any expenses which enter into the value of the merchandise when sold in the ordinary course of trade for domestic consumption in the country of exportation are not charges but become a part of the value of the merchandise.

Nondutiable charges are such items of cost and expense as constitute no part of the value of the merchandise when sold in the ordinary course of trade in the country of exportation, and are no part of the expense of placing it in condition, packed ready for shipment to the United States.

[7] The term "country" is to be regarded for the purposes of this section as embracing all the possessions of a nation, however widely separated, which are subject to the same supreme executive and legislative authority and control.

[8] See Tariff Act of 1930, sec. 501, as amended (19 U. S. C. 1501), relating to appeals for reappraisement by collector or importer.

(b) The time of exportation referred to in section 402 and section 402a of the tariff act, as amended, is the date on which the merchandise actually leaves the country of exportation for the United States.[5] However, if the merchandise is not exported directly by water and no positive evidence is at hand as to the date of exportation, the date of the special customs or commercial invoice shall be considered to be the date of exportation unless the invoice appears to be dated after the date the merchandise actually left the country of exportation. If such invoice covers several individual bills of different dates, the latest of such dates, unless it appears to be later than the actual date of export, shall be considered to be the date of exportation. In the case of indirect shipments exported from one country through another, if the invoice is post dated, the date of the bill of lading may be considered to be the date of exportation in the absence of other evidence if the bill of lading was issued in the country of exportation. A bill of lading showing the date of shipment shall be accepted as evidence of the date of exportation, if such bill has been certified in accordance with the provisions of section 2904, Revised Statutes (19 U. S. C. 240).

(c) The appraiser shall determine the amount and dutiability of any costs, charges, and expenses which are incident to making the merchandise ready for shipment to this country within the meaning of sections 402 or 402a, Tariff Act of 1930, as amended.[6]

(d) Merchandise imported from one country,[7] being the growth, production, or manufacture of another country, shall be appraised at its value in the principal markets of the country from which it is immediately imported unless it appears by the invoice, bill of lading, or other evidence that the merchandise was destined for the United States at the time of original shipment, in which case it shall be appraised at its value in the principal markets of the country from which it was originally exported.

(e) The report of the appraiser as to value shall not be reconsidered or modified by him after the appraised invoice and report of appraisement has been lodged with the collector, but within 60 days thereafter an appeal for reappraisement may be filed by the collector if he believes the appraisement is incorrect.[8]

(f) Instructions for appraisement of merchandise in cases involving the conversion of foreign currencies for which two or more rates of exchange have been certified by the Federal Reserve Bank of New York are contained in § 16.4 of this chapter.

(Secs. 402, 488, 500, 46 Stat. 708, as amended, 714, 729, as amended, sec. 402, 70 Stat. 943; 19 U.S.C. 1401a, 1402, 1488, 1500)

§ 14.4 Furnishing information as to values.

The appraiser shall furnish to importers the latest information as to values in his possession, subject to the following conditions:

(a) Such information shall be given before appraisement only as provided for in § 8.29 (c) and (d) of this chapter, or in response to a specific oral or written request therefor by an importer or his representative, supported by an adequate

reason for the request, and in no case shall be volunteered by a customs employee.

(b) The information shall be given only in regard to merchandise to be appraised by, or under the jurisdiction of, the appraiser who receives the request, and only after the merchandise has arrived at the port of entry or upon satisfactory evidence that it has been exported and is en route to the United States.

(c) Each request shall be accompanied by the latest information as to the values in question which the importer has or reasonably can obtain.

(d) Information shall be given only with an understanding and agreement in each case that the information is in no sense an appraisement and is not binding upon the appraiser's action when he appraises the goods.

(e) The appraiser shall not be required to reply to a written request for value information after a value for the merchandise has been declared on entry unless he has information indicating a probable appraised value different from such entered value.

§ 14.5 Coal tar products (cyclic organic chemicals having a benzenoid quinoid, or modified benzenoid structure).

(a) Subject to the conditions of § 8.5(b) of this chapter, prior to entry an importer shall be permitted to take samples under proper supervision from his own importation of articles dutiable under Schedule 4, part 1, Tariff Schedules of the United States.

(b) When an importer seeks information from the appraising officer prior to entry or formal entry is withheld for the importer's convenience as provided for in paragraph (e) of this section, the importer shall furnish to the appraising officer such relevant information as he may request.

(c) Importers may be furnished information as to the American selling price or United States value of coal-tar products upon compliance with the provisions of § 14.4.

(d) The appraiser at New York shall from time to time issue lists of coal-tar products which he believes to be competitive and noncompetitive within the contemplation of schedule 4, part 1, headnotes 4 and 5, Tariff Schedules of the United States,[9] and add articles thereto or remove articles therefrom as investigation shall justify. This list is advisory only and in no manner relieves appraising officers from the duty of independent appraisement required by law. The appraiser shall furnish copies of such lists and amendments thereof to the the Customs Information Exchange for circulation among other appraising officers and the public upon request.

(e) The appraiser at New York, upon application of an importer having an invoice of an article not named on either the competitive or the noncompetitive list, shall proceed immediately to ascertain to which list the article belongs and, upon such ascertainment shall add the article to such list. The importer may withhold formal entry pending addition of the article to either list. The appraiser shall inform the importer of his action.

(f) When an imported article is of different strength from a similar competitive article manufactured or produced in the United States, the value of the imported article shall be adjusted in relation to the selling price of the domestic article in the proportion which the strength of the imported article bears to that of the domestic article.[10]

(g) When an article is a similar competitive article, the value of such article shall be that portion of the American selling price of the domestic article freely offered for sale which bears the same ratio to such price as the value of the domestic article not freely offered for sale has to the value of the article in the manufacture of which it is used.

(h) When the appraising officer shall be satisfied after investigation that a similar competitive domestic article is offered for sale at an arbitrary and unreasonable price not intended to secure bona fide sales and which does not secure bona fide sales, such price shall not be considered as the American selling price, and such officer shall use all reasonable ways and means to ascertain the price that the manufacturer, producer, or owner would have received, within the meaning of sections 402 (e) or 402a (g), Tariff Act of 1930, as amended.

(i) Where two or more domestic articles are considered similar to and competitive with an imported article, the American selling price of the domestic article which accomplishes results most nearly equal to those of the imported article shall be taken as the basis for the assessment of the ad valorem rate.[11]

(j) In the ascertainment of United States value, the allowances permitted under sections 402 (c) or 402a (e), Tariff Act of 1930, as amended, shall be made on the basis of the amounts of the factors enumerated therein which actually entered into the price at which such or similar imported merchandise was being sold in the principal market of the United States at the time of exportation, subject to the limitations as to profits, general expenses, or commission.

(k) Tests which are necessary in the appraisement of an imported coal-tar product shall be made under conditions approximating as closely as practicable the conditions in which the articles will be actually used in trade or manufacture.

(l) When a coal-tar product is found to be noncompetitive and no United States value can be ascertained, the article shall be appraised in accordance with section 402 (a) or section 402a (a), Tariff Act of 1930, as amended.

(m) Standards of strength for coal-tar products adopted by the Secretary of the Treasury will be published from time to time and such standards heretofore adopted and published shall continue in force until changed or revoked.[12]

---

[9] "4. The ad valorem rates provided in this part shall be based upon the American selling price, as defined in section 402 or 402a of this Act, of any similar competitive article manufactured or produced in the United States. If there is no similar competitive article manufactured or produced in the United States then the ad valorem rate shall be based upon the United States value, as defined in the said section 402 or 402a.

"5. For the purposes of this part, any product provided for in this part shall be considered similar to, or competitive with, any imported product which accomplishes results substantially equal to those accomplished by the domestic product when used in substantially the same manner." (Schedule 4, part 1, headnotes 4 and 5, Tariff Schedules of the United States.)

[10] "6. For the purposes of the provisions of this subpart relating to 'Colors, dyes, stains, and related products' (except products provided for in item 406.80)—

"(a) the specific duties shall be based on standards of strength which shall be established by the Secretary of the Treasury, and upon all importations of such articles which exceed such standards of strength the specific duty shall be computed on the weight which the article would have if it were diluted to the standard strength, but in no case shall any such articles of whatever strength be subject to a less specific duty than that provided in the respective items of this subpart;

"(b) it shall be unlawful to import or bring into the United States any such product unless the invoice shall bear a plain, conspicuous, and truly descriptive statement of the identity and percentage, exclusive of diluents, of such product;

"(c) it shall be unlawful to import or bring into the United States any such product, if the immediate container or the invoice bears any statement, design, or device regarding the product or the ingredients or substances contained therein which is false, fraudulent, or misleading in any particular; and

"(d) in the enforcement of the foregoing provisions of this headnote the Secretary of the Treasury shall adopt a standard of strength for each dye or other product which shall conform as nearly as practicable to the commercial strength in ordinary use in the United States prior to July 1, 1914. If a dye or other product has been introduced into commercial use since said date then the standard of strength for such dye or other product shall conform as nearly as practicable to the commercial strength in ordinary use. If a dye or other product was or is ordinarily used in more than one commercial strength, then the lowest commercial strength shall be adopted as the standard of strength for such dye or other product." (Schedule 4, part 1C, headnote 6, Tariff Schedules of the United States.)

[11] In determining the value of imported articles classifiable under par. 27 or 28 of the tariff act, the words "similar competitive articles" in subpar. (c) of such paragraphs shall not be construed as relating exclusively to domestic articles actually derived or obtained from coal tar. No domestic article otherwise within the scope of the quoted words shall be excluded therefrom because not derived from coal tar if such an article, if imported, would be subject to classification as a "coal-tar product" under par. 27, 28, or 1651 of the tariff act.

[12] The following Treasury Decisions contain standards of strength for coal-tar products to which U.S. Standard numbers have been assigned and which have been adopted by the Secretary of the Treasury, under par. 28, Tariff Act of 1922, and par. 28, Tariff Act of 1930:

39765	40340	40525	41017
40192	40361	40563	41061
40257	40371	40596	41089
40278	40396	40623	41130
40293	40420	40653	41162
40298	40450	40922	41224
40329	40472	40947	41313

(n) The Chief Chemist, Customs Laboratory, 201 Varick Street, New York, is hereby authorized to receive from domestic manufacturers samples of those coal-tar products they produce and offer and which are more specifically described as a coal-tar color, dye, stain, color acid, color base, color lake, leuco-compound, or indoxyl or indoxyl compound. Each sample so received shall be accompanied by specifications setting forth all the information called for by Schedule A below. It is essential that the specifications accompanying the sample be set forth in the order and manner specified because the information will be used for comparison with similar data required on importations of foreign coal-tar products. The samples and specifications shall be examined and appropriately filed by the chief chemist. Samples and specifications shall be removed from, replaced, or added to the file as may be necessary. The chief chemist shall advise the appraiser at New York of those products removed from or added to the file. The appraiser shall from time to time prepare a list, identifying each such product by the invoice name and, if different, the trade name as described in items Nos. 1 and 2 of Schedule A. The color index number, item No. 8 of Schedule A, shall appear in the list opposite the name of the product. These lists, which are advisory only, shall be furnished to the Customs Information Exchange for circularization among other appraising officers and the public upon request. Other information in respect of the specifications shall be treated as confidential, except for the purpose for which they are submitted (see § 26.4 (a) of this chapter).

SCHEDULE A

COAL-TAR COLORS, DYES, STAINS, COLOR ACIDS, COLOR, BASES, COLOR LAKES, LEUCO AND INDOXYL COMPOUNDS

1. Invoice name of product _____
2. Trade name of product _____
3. Name of manufacturer _____

41380	43704	47836	50199
41513	44231	48361	50333
41656	44924	48541	50431
41756	45319	48814	50556
41932	45758	49137	50691
42147	46012	49353	50806
42420	46487	49671	55432
42687	46793	49790	
42942	47186	50001	
43255	47544	50094	

4. List other U. S. manufacturers and names under which sold, if known _____
5. List foreign manufacturers and names under which sold, if known _____
6. Percentage of active ingredient_____
7. Schultz number (if none, so state) _____
8. Colour index number (if none, so state) _
9. U. S. standard number (if none, so state)
10. Foreign prototype number (if none or unknown, so state) _____
11. Method of application (state whether acid, basic, direct, direct and developed, mordant, mordant acid, neutral, oil, oil and spirit, printing, spirit soluble, vat (soluble), vat (insoluble), or other (describe); and state nature of pre-treatment or after-treatment, if any) _____
12. Material to which applied (name the material or materials for which the color or dye is primarily designed).
    A. Fibrous Materials:
    (1) Natural: Cotton; Silk; Wool; Hemp; Flax (Linen); Jute; Ramie; Straw and Grass; Sisal; Other Animal or Vegetable Fibers.
    (2) Synthetic (including regenerated and modified cellulose): Acetate (Celanese, Acele, Koda); Rayon-Cuprammonium (Bemberg, Matesa); Viscose (Avisco, Delray); Polyamide (Nylon, Perlon); Acrylic (Dynel, Acrilan, Orlon); Vinylidene Chloride (Saran, Velon); Polyethylene (Wynene, Reevon); Polvester (Dacron, Terylene); Protein (Azlon, Lanital, Aralac); Glass; Other.
    B. Non-Fibrous Materials:
    Plastics; Leather; Paper; Cellophane; Photographic sensitizers, desensitizers, light filters and tinting film; Foodstuffs; Biological materials; Solutions, analytical; Oils, fats, and waxes; Soap; Gasoline; Paints, lacquers, stains, and inks; Smoke (signals); Aluminum; Earthenware; Other.
13. Chemical Classification: Acridine; Aminoketone; Anthraquinone; Azine; Azo, mono-; Azo, dis-; Azo, tris-; Aso, tetrakis-; Azo, poly-; Azo, metal complex; Azo, pigment; Azoic; Color acid; Color base; Color lake; Cyanine; Esters of leuco indigoid; Esters of leuco thioindigoid; Esters of leuco anthraquinone; Fluorescent; Hydroxyketone; Indamine; Indigoid; Indoaniline; Indophenol; Indoxyl; Indoxyl Compound; Ketol; Ketonimine; Lactone; Leuco Compound; Methane, diphenylnaphthyl-; Methane, triphenyl-; Methine, aza-; Methine, poly-; Nitro; Nitroso; Oxazine; Phthalocyanine; Quinoline; Quinonoid; Sulfur or sulfide; Thiazine; Thiazole; Thioindigoid; Xanthene; Other
    A. Describe the class or classes and subclass to which the product belongs.

Example (1):
Monoazo.
Gamma-acid coupling.
Example (2):
Xanthen—Basic.
Oxy-carboxy rhodamines.

B. Give any other information which you consider may be helpful in classifying the product.

Example (1):
Insoluble azo dye on the fiber. Mixtures of stabilized diazo amino compounds and coupling components for preparation of the dye on the fiber.
Example (2):
Anthraquinone—Disperson type.
Amino-oxy-anthraquinones.

14. If the product consists of a mixture of two or more active ingredients, the information required by the preceding numbered paragraphs shall be given for each active ingredient in the mixture, together with the proportion of each active ingredient in the mixture.
15. In addition to the above specifications, there shall be furnished a color pattern or card showing typical small specimens of the material to which the product has been applied with an indication of the strength and the method of application. However, in those cases where a suitable color card has been filed previously with the New York Customs Laboratory, or where a color card is not used commercially and it is not practical to submit one, it will be considered satisfactory to furnish a statement setting forth the date the previous pattern or card was filed and its identification number, or the reason why one is not submitted.

(o) Whenever a sample taken from an imported coal-tar product referred to in § 8.13 (h) of this chapter, is received in the customs laboratory for test to determine its comparability with any domestic coal-tar product, the file of domestic samples and specifications referred to in paragraph (n) of this section shall be searched. If after searching the file and making any necessary tests, no comparable domestic product is found, the chief chemist shall prepare and submit his laboratory report accordingly.

(Sec. 2, 70 Stat. 943, sec. 402, 46 Stat. 708, as amended, sec. 101, 76 Stat. 72; 19 U.S.C. 1401a, 1402; Sch. 4, part 1, headnotes 4, 5, part 1C, headnote 6, Tariff Schedules of the United States)

PROCEDURE UNDER ANTIDUMPING ACT

§ 14.6 Suspected dumping.

(a) If any appraiser or other principal customs officer has knowledge of any grounds for a reason to believe or suspect that any merchandise is being, or is likely to be, imported into the United States at a purchase price or exporter's sales price less than the foreign market value (or, in the absence of such value, than the constructed value), as contemplated by section 201(b), Antidumping Act, 1921, as amended [14] (19 U.S.C. 160(b)), or at less than its "fair value" as that term is defined in § 14.7, he shall communicate his belief or suspicion promptly to the Commissioner of Customs. Every such communication shall contain or be accompanied by a statement of substantially the same information as required in paragraph (b) of this section, if in the possession of the appraiser or other officer or readily available to him.

(b) Any person outside the Customs Service who has reason to believe or suspect that merchandise is being, or is likely to be, imported into the United States under such circumstances as to bring it within the purview of the Antidumping Act, 1921, as amended,[14a] may

[14] See footnote 14a.

[14a] SEC. 201. (a) Whenever the Secretary of the Treasury (hereinafter called the "Secretary") determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the United States Tariff Commission, and the said Commission shall determine within three months thereafter whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. The said Commission, after such investigation as it deems necessary, shall notify the Secretary of its determination, and, if that determination is in the affirmative, the Secretary shall make public a notice (hereinafter in this Act called a "finding") of his determination and the determination of the said Commission. For the purposes of this subsection, the said Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative. The Secretary's finding shall include a description of the class or kind of merchandise to which it applies in such detail as he shall deem necessary for the guidance of customs officers.

(b) Whenever, in the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, the Secretary has reason to believe or suspect, from the invoice or other papers or from information presented to him or to

(Footnote 14a—Continued)

any person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the constructed value), he shall forthwith publish notice of that fact in the FEDERAL REGISTER and shall authorize, under such regulations as he may prescribe, the withholding of appraisement reports as to such merchandise entered, or withdrawn from warehouse, for consumption, not more than one hundred and twenty days before the question of dumping has been raised by or presented to him or any person to whom authority under this section has been delegated, until the further order of the Secretary, or until the Secretary has made public a finding as provided for in subdivision (a) in regard to such merchandise.

(c) The Secretary, upon determining whether foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and the United States Tariff Commission, upon making its determination under subsection (a) of this section, shall each publish such determination in the FEDERAL REGISTER, with a statement of the reasons therefor, whether such determination is in the affirmative or in the negative.

SEC. 202. (a) In the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary of the Treasury has made public a finding as provided for in section 201, entered, or withdrawn from warehouse, for consumption, not more than one hundred and twenty days before the question of dumping was raised by or presented to the Secretary or any person to whom authority under section 201 has been delegated, and as to which no appraisement report has been made before such finding has been so made public, if the purchase price or the exporter's sales price is less than the foreign market value (or, in the absence of such value, than the constructed value) there shall be levied, collected, and paid, in addition to any other duties imposed thereon by law, a special dumping duty in an amount equal to such difference.

(b) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the purchase price and the foreign market value (or that the fact that the purchase price is the same as the foreign market value) is wholly or partly due to—

(1) The fact that the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale for exportation to the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

(2) Other differences in circumstances of sale, or

(3) The fact that merchandise described in subdivision (C), (D) (E), or (F) of section 212(3) is used in determining foreign market value,

then due allowance shall be made therefor.

(c) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the exporter's sales price and the foreign market value (or that the fact that the exporter's sales price is the same as the foreign market value) is wholly or partly due to—

(1) The fact that the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

(2) Other differences in circumstances of sale, or

(3) The fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212(3) is used in determining foreign market value,

then due allowance shall be made therefor.

SEC. 203. That for the purposes of this title, the purchase price of imported merchandise shall be the price at which such merchandise has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise is imported, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and plus the amount, if not included in such price, of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller, in respect to the manufacture, production or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

SEC. 204. That for the purpose of this title the exporter's sales price of imported merchandise shall be the price at which such merchandise is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less (1) the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States, (2) the amount of the commissions, if any, for selling in the United States the particular merchandise under consideration, (3) an amount equal to the expenses, if any, generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, and (4) the amount of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller in respect to the manufacture, production, or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

SEC. 205. For the purposes of this title, the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, or if the Secretary determines that the quantity sold for home consumption is so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account. If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207, the prices at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in determining the foreign market value.

SEC. 206. (a) For the purposes of this title, the constructed value of imported merchandise shall be the sum of—

(1) The cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

(2) An amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, except that (A) the amount for general expenses shall not be less than 10 per centum of the cost as defined in paragraph (1), and (B) the amount for profit shall not be less than 8 per centum of the sum of such general expenses and cost; and

(3) The cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition, packed ready for shipment to the United States.

(b) For the purposes of this section, a transaction directly or indirectly between persons specified in any one of the para-

(Footnote 14a—Continued)

graphs in subsection (c) of this section may

(Footnote 14a—Continued)

graphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the paragraphs in subsection (c).

(c) The persons referred to in subsection (b) are:

(1) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;

(2) Any officer or director of an organization and such organization;

(3) Partners;

(4) Employer and employee;

(5) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting stock or shares of any organization and such organization; and

(6) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

SEC. 207. That for the purposes of this title the exporter of imported merchandise shall be the person by whom or for whose account the merchandise is imported into the United States:

(1) If such person is the agent or principal of the exporter, manufacturer, or producer; or

(2) If such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer; or

(3) If the exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in any business conducted by such persons; or

(4) If any person or persons, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, own or control in the aggregate 20 per centum or more of the voting power or control in the business carried on by the person by whom or for whose account the merchandise is imported into the United States, and also 20 per centum or more of such power or control in the business of the exporter, manufacturer, or producer.

SEC. 208. That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and delivery of which has not been made by the collector before such finding has been so made public, unless the person by whom or for whose account such merchandise is imported makes oath before the collector, under regulations prescribed by the Secretary, that he is not an exporter, or unless such person declares under oath at the time of entry, under regulations prescribed by the Secretary, the exporter's sales prices of such merchandise, it shall be unlawful for the collector to deliver the merchandise until such person has made oath before the collector, under regulations prescribed by the said Secretary, that the merchandise has not been sold or agreed to be sold by such person, and has given bond to the collector, under regulations prescribed by the Secretary, with sureties approved by the collector, in an amount equal to the estimated value of the merchandise, conditioned: (1) that he will report to the collector the exporter's sales price of the merchandise within 30 days after such merchandise has been sold or agreed to be sold in the United States; (2) that he will pay on demand from the collector the amount of special dumping duty, if any, imposed by this title upon such merchandise; and (3) that he will furnish to the collector such information as may be in his possession and as may be necessary for the ascertainment of such duty, and will keep such records as to the sale of such merchandise as the Secretary may by regulation prescribe.

SEC. 209. That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and as to which the appraiser or person acting as appraiser has made no appraisement report to the collector before such finding has been so made public, it shall be the duty of each appraiser or person acting as appraiser, by all reasonable ways and means to ascertain, estimate, and appraise (any invoice or affidavit thereto or statement of constructed value to the contrary notwithstanding) and report to the collector the foreign market value or the constructed value, as the case may be, the purchase price, and the exporter's sales price, and any other facts which the Secretary may deem necessary for the purposes of this title.

SEC. 210. That for the purposes of this title the determination of the appraiser or person acting as appraiser as to the foreign market value or the constructed value, as the case may be, the purchase price, and the exporter's sales price, and the action of the collector in assessing special dumping duty, shall have the same force and effect and be subject to the same right of appeal and protest, under the same conditions and subject to the same limitations; and the general appraisers, the United States Customs Court,

(Footnote 14a—Continued)

and the Court of Customs and Patent Appeals shall have the same jurisdiction, powers, and duties in connection with such appeals and protests as in the case of appeals and protests relating to customs duties under existing law.

SEC. 211. That the special dumping duty imposed by this title shall be treated in all respects as regular customs duties within the meaning of all laws relating to the drawback of customs duties.

SEC. 212. For the purposes of this title—

(1) The term "sold or, in the absence of sales, offered for sale" means sold or, in the absence of sales, offered—

(A) to all purchasers at wholesale, or

(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise,

without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.

(2) The term "ordinary course of trade" means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise under consideration, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise under consideration.

(3) The term "such or similar merchandise" means merchandise in the first of the following categories in respect of which a determination for the purposes of this title can be satisfactorily made:

(A) The merchandise under consideration and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise under consideration.

(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise under consideration.

(C) Merchandise (i) produced in the same country and by the same person as the merchandise under consideration, (ii) like the merchandise under consideration in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise under consideration.

(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

(E) Merchandise (i) produced in the same country and by the same person and of the same general class or kind as the merchandise under consideration, (ii) like the merchandise under consideration in the purposes for which used, and (iii) which the Secretary or his delegate determines may reasonably be compared for the purposes of

communicate his belief or suspicion and the reasons therefor in writing to any appraiser of merchandise or the Commissioner of Customs. Every such communication shall contain or be accompanied by the following:

(1) A detailed description or sample of the merchandise; the name of the country from which it is being, or is likely to be, imported; and the ports or probable ports of importation into the United States. If no sample is furnished, the appraiser concerned in appropriate cases may call upon the person who furnished the information to furnish samples of the imported and competitive domestic articles, or either.

(2) Such detailed data as to values and prices as is reasonably available to the person furnishing the information and is relied upon by him to support his belief or suspicion, including information as to any differences between the foreign market value or constructed value and the import purchase price or exporter's sales price which may be accounted for by any difference in taxes, discounts, incidental costs such as those for packing or freight, or other items.

(3) Such information as is reasonably available to the person furnishing the information as to the total value and

---

this title with the merchandise under consideration.

(F) Merchandise which satisfies all the requirements of subdivision (E) except that it was produced by another person.

(4) The term "usual wholesale quantities", in any case in which the merchandise in respect of which value is being determined is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.

SEC. 213. That this title may be cited as the "Antidumping Act, 1921."

SEC. 406. That when used in Title II * * *—

The term "person" includes individuals, partnerships, corporations, and associations; and

The term "United States" includes all Territories and possessions subject to the jurisdiction of the United States, except the Virgin Islands, the islands of Guam and Tutuila, and the Canal Zone.

SEC. 407. That the Secretary shall make rules and regulations necessary for the enforcement of this Act. (Antidumping Act, 1921, as amended; 19 U.S.C. 160–173.)

volume of domestic production of the merchandise in question.

(c) If any information filed with an appraiser or the Commissioner pursuant to paragraph (b) of this section does not conform with the requirements of that paragraph, the communication shall be returned promptly to the person who submitted it with detailed written advice as to the respects in which it does not conform. If such information filed with an appraiser is found to comply with the requirements, it shall be transmitted by the appraiser within 10 days to the Commissioner of Customs, together with all pertinent additional information obtainable by the appraiser. Before making such transmittal, or as soon thereafter as possible, the appraiser shall make such inquiry regarding the matter among importers, domestic producers and distributors, or others as he may deem appropriate and report the results to the Commissioner together with his comments thereon.

(d) (1) Upon receipt pursuant to paragraph (a), (b), or (c) of this section of information in proper form, the Commissioner will proceed promptly to decide whether or not reasonable grounds exist to believe or suspect that the merchandise is being, or is likely to be, sold at less than its foreign market value (or, in the absence of such value, than its constructed value). To assist him in making such decision the Commissioner, in his discretion, may conduct a brief preliminary investigation into such matters, in addition to the invoice or other papers or information presented to him, as he may deem necessary.

(2) If the Commissioner decides, after such preliminary investigation, if any, that reasonable grounds do exist to believe or suspect that the merchandise is being, or is likely to be, sold at less than its foreign market value (or, in the absence of such value, than its constructed value) he will thereafter proceed, by a full-scale investigation, or otherwise, to obtain such additional information, if any, as may be necessary to enable the Secretary to reach a determination as provided by § 14.8(a).

(3) If the Commissioner decides, after such preliminary investigation, if any that reasonable grounds do not exist to believe or suspect that the merchandise is being, or is likely to be, sold at less than its foreign market value (or, in the absence of such value, than its constructed value), he will thereafter

(i) Proceed, by a full-scale investigation, or otherwise to obtain such additional information, if any, as may be necessary to enable the Secretary to reach a determination as provided by § 14.8(a), or

(ii) Recommend to the Secretary that a full-scale investigation is not warranted by the facts of the case and that the case be closed by a finding of no sales at less than fair value.

(e) If the Commissioner determines pursuant to paragraph (d)(1) of this section, or in the course of an investigation under paragraph (d)(3)(i) of this section, that there are reasonable grounds to believe or suspect that any merchandise is being, or is likely to be, sold at less than its foreign market value (or, in the absence of such value, than its constructed value) under the Antidumping Act, he shall publish notice of that fact in the FEDERAL REGISTER, furnishing an adequate description of the merchandise and the name of each country of exportation, and shall advise all appraisers of his action and of the date when the question of dumping was raised by or presented to the Secretary or his delegate. The notice shall also include the name of the person who raised the question of dumping, if outside the Customs Service, unless such person has advised the Commissioner of Customs in writing, prior to this determination, that publication of his name would be likely to subject him to commercial retaliation or would be injurious to him in other respects. If the belief or suspicion relates only to certain shippers, the notice shall also include the names of such shippers. Upon receipt of such advice, the appraisers shall proceed in accordance with the pertinent provisions of § 14.9.

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

§ 14.7 Fair value.

(a) *Definition.*[15] For the purposes of section 201(a) of the Antidumping Act,

[15] The definition of fair value does not in any way modify or affect definitions of foreign market value given in section 205 of the Antidumping Act, 1921, as amended (19 U.S.C. 164), or of constructed value given in section 206 (19 U.S.C. 165) or the application of a foreign market value (or, in the absence of such value, constructed value) as defined in the Antidumping Act, 1921, as amended, as a basis for determining whether or not to withhold appraisement under section 201(b) (19 U.S.C. 160(b)) or for imposition of duty under section 202 (19 U.S.C. 161).

An industry in the United States which considers that it is being injured by sales of merchandise at less than fair value will ordinarily have insufficient information on which to submit proof either of fair value as herein defined, or foreign market value or constructed value as defined in said sections 205 and 206 (19 U.S.C. 164 and 165). The industry may, however, submit, and appraisers will consider, such material as is available to it, including information indicating the market price for similar merchandise in the country of exportation and in any third countries in which merchandise of the producer complained of is known to be sold. Information submitted by an industry and information submitted by the foreign producer and others will be of value in assisting the Treasury to establish the basis for fair value, foreign market value, or constructed value.

Fair value is computed on the basis of sales for consumption in the country of exportation or for exportation otherwise than to the United States at or about the date of the purchase or agreement to purchase of the merchandise to be imported into the United States, or the date of exportation. However, in cases where it may be important to determine either the stability of the market or its trend, as well as to determine whether there has been a fictitious sale as described in § 14.7(b)(6) of these regulations, it will be helpful to the Secretary to have information as to sales made for consumption in the country of exportation or for exportation otherwise than to the United States over a significant period of time immediately preceding the date of purchase or agreement to purchase, or exportation.

EXAMPLES FOR PURPOSES OF ILLUSTRATION

A few examples of what would and what would not be considered sales at less than fair value are given below. Unless otherwise indicated, it is assumed that individual sales are in the same average quantities and that they are also made under the same circumstances of sale.

It must be understood that these examples of necessity oversimplify for purposes of illustration. Each actual case of alleged sales at less than fair value must be considered in the light of all relevant facts, and it may be seldom that cases will be presented for consideration which are as free of complications as are the cases cited in these examples. The tentative conclusions set forth below cannot, therefore, be considered as decisions which are binding upon the Secretary of the Treasury. They are in particular subject to the qualification that there may be other factors present, not here stated, or not sufficiently emphasized for the purposes of an actual case, which would lead to different or opposite results.

As is the case in respect of other laws administered in whole or in part by him, the Commissioner of Customs stands ready to answer specific inquiries arising under the Antidumping Act, 1921, as amended, which relate to contemplated transactions, to the best of his ability, notably those involving questions as to whether § 14.7(a) (1) or (2) of those regulations applies, and questions as to the method of computation which may be used in connection with § 14.7(b)(7) hereof.

Example 1. A foreign producer has made the following sales of a particular product over a representative period:

Sales for consumption in country of exportation	*Sales for exportation to countries other than the United States*	*Sales to the United States*
75,000 units @ $1.00	25,000 units @ $0.85	15,000 units @ $0.90

The quantity of sales of this product in the country of exportation, amounting to 75,000 units, is sufficiently large in relation to the total of 25,000 units sold for exportation to countries other than the United States to constitute an adequate basis for comparison with sales to the United States. (See § 14.7(a) (1) and (2) of these regulations.) The price for sale to the United States is less than the price in the country of exportation. The foreign producer is therefore selling in the United States at less than fair value.

Home market sales will form the basis of comparison whether or not they are restricted. This example concerns home market prices which are either free of restrictions or accompanied by restrictions that do not affect the value of the merchandise. If there should be restrictions which affect the value of the merchandise, appropriate adjustment of the home market price will be made. Third country prices, even though unrestricted, will not be resorted to in this set of circumstances.

Example 2. A foreign producer has made the following sales of a particular product:

Sales for consumption in country of exportation	*Sales for exportation to countries other than the United States*	*Sales to the United States*
25,000 units @ $0.95	75,000 units @ $0.90	15,000 units @ $0.90

The foreign producer can show that the quantity of sales of this product in the country of exportation, amounting to 25,000 units, is so small in relation to the total of 75,000 units sold for exportation to countries other than the United States, as to be an inadequate basis for comparison with sales to the United States. Determination of fair value will therefore be based on the selling price for exportation to coun-

(Footnote 15—Continued)
tries other than the United States, pursuant to § 14.7(a)(2) of these regulations. In the absence of special circumstances, it would appear that the sales for exportation to the United States were not below fair value.

Third country sales will form the basis of comparison whether or not they are restricted. This example concerns third country sales which are either free of restrictions or accompanied by restrictions which do not affect the value of the merchandise. If there should be restrictions which affect the value of the merchandise, appropriate adjustment of the third country price will be made. Home market prices, even though unrestricted, will not be resorted to in this set of circumstances.

Example 3. A foreign producer has sold his merchandise for consumption in the country of exportation at or about the date of the sale or exportation to the United States at the following prices:

2,000 tons @ $32.80 ton.
1,000 tons @ $32.85 ton.
2,000 tons @ $33.00 ton.
1,000 tons @ $33.10 ton.

It is conceded that the price depends upon the bargaining of the parties rather than upon quantity purchased. Sales to the United States have been made by this supplier in the same average quantities at a uniform price of $32.90 per ton during the period. The difference in price between the producer's home market sales or any average thereof and his sales to the United States is so slight that it will not be regarded as more than insignificant unless unusual market conditions in the United States or the quantities involved as compared to United States production justify a contrary conclusion.

Example 4. A foreign producer makes all of his sales, other than those to the United States, for consumption in the country of exportation. The majority of the merchandise thus sold by him is sold at list prices, net. However, a discount of 5 percent is granted on sales of more than 500 tons. Sales to the United States are at list prices less 10 percent and have been in quantities of 10,000 tons or more. There have been no other sales by this producer in such quantities. However, if the 10 percent discount is determined to be reasonable in the particular trade under consideration for the quantities involved, and to be due to the differences in such quantities, it will be allowed in calculating home market price. Accordingly, the sales will not be considered to have been made at less than fair value.

The same result could obtain if the pricing pattern showed a differential because of quantity even though there were no list prices, or the list prices did not specify quantity discounts. This is shown in Example 5.

Example 5. A foreign producer has the following record of sales at or about the date of sale or exportation to the United States:

Sales for consumption in country of exportation	*Quantity for each sale*	*Sales to United States*	*Quantity for each sale*
200,000 lbs. @ $0.85	Units of 100 lbs.	100,000 lbs. @ $0.80	Units of 1,000 lbs.
100,000 lbs. @ $0.80	Units of 1,000 lbs.		

Although the preponderance of sales during the period (200,000 lbs.) was at a price of $0.85 as opposed to the United States price of $0.80, the lower United States price is justified on the ground that the home price pattern shows that to be the prevailing price for units of 1,000 pounds, which were the units involved in the United States sales. On the other hand, if the record of sales were to show 100,000 pounds sold for consumption in the country of exportation in units of 1,000 pounds at $0.85 instead of $0.80, the sales to the United States would be deemed to have been made at less than fair value.

Example 6. A foreign producer sells for consumption in the country of exportation at $12 a unit, regardless of quantities and regardless of whether the sales are to wholesalers or retailers. He sells to retail purchasers in the United States at $12 a unit and wholesale purchasers in the United States at $10 a unit, in each case regardless of quantities.

The circumstances in this case indicate that the foreign producer will be deemed to have been selling to wholesalers in the United States at less than fair value. Should, however, his record of sales for consumption in the country of exportation show that he sells, regardless of quantities, at $10 a unit to wholesalers and at $12 a unit to retailers, then, making allowances for the circumstances of sale, the sales in the United States will not be deemed to be sales at less than fair value.

Example 7. A foreign producer sells for consumption in the country of exportation at $105 a unit, delivered anywhere within the country of exportation. He has no f.o.b. factory price for home consumption. He sells to the United States f.o.b. factory for $100 a unit. Evidence indicates that it costs the producer on the average $0.50 a unit to deliver on home consumption sales.

Giving due consideration to the circumstances of sale, the sales to United States purchasers at $100 a unit will be deemed to be sales at less than fair value. Should the delivery cost on home consumption sales average $5 a unit instead of $0.50, the sales to United States purchasers at $100 a unit will not be deemed to be sales at less than fair value.

1921, as amended (19 U.S.C. 160(a)), the fair value of imported merchandise shall be determined as follows:

(1) *Fair value based on price in country of exportation—the usual test.* Merchandise imported into the United States will ordinarily be considered to have been sold, or to be likely to be sold, at less than fair value if the purchase price or exporter's sales price (as defined in sections 203 and 204, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162, 163)), as the case may be, is, or is likely to be, less than the price (as defined in section 205, after adjustment as provided for in section 202 of the Antidumping Act, 1921, as amended (19 U.S.C. 164, 161)), at which such or similar merchandise (as defined in section 212(3) of the Antidumping Act, 1921, as amended (19 U.S.C. 170a(3)) is sold for consumption in the country of exportation on or about the date of purchase or agreement to purchase, of the merchandise imported into the United States if purchase price applies, or on or about the date of exportation thereof if exporter's sales price applies.

(2) *Fair value based on sales for exportation to countries other than the United States.* If, however, it is demonstrated that during a representative period the quantity of such or similar merchandise sold for consumption in the country of exportation is so small, in relation to the quantity sold for exportation to countries other than the United States, as to be an inadequate basis for comparison, then merchandise imported into the United States will ordinarily be deemed to have been sold, and to be likely to be sold, at less than fair value if the purchase price or the exporter's sales price (as defined in sections 203 and 204, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162, 163)), as the case may be, is, or is likely to be, less than the price (as defined in section 205, after adjustment as provided for in section 202 of the Antidumping Act, 1921, as amended (19 U.S.C. 164, 161)), at which such or similar merchandise (as defined in section 212(3) of the Antidumping Act, 1921, as amended (19 U.S.C. 170a(3)) is sold for exportation to countries other than the United States on or about the date of purchase or agreement to purchase of the merchandise imported into the United States if purchase price applies, or on or about the date of exportation thereof if exporter's sales price applies.

(3) *Fair value based on constructed value.* If the information available is deemed by the Secretary insufficient or inadequate for a determination under subparagraph (1) or (2) of this paragraph, he will determine fair value on the basis of the constructed value as defined in section 206 of the Antidumping Act, 1921, as amended (19 U.S.C. 165).

(b) *Calculation of fair value.* In calculating fair value under section 201(a), Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), the following criteria shall be applicable:

(1) *Quantities.* In comparing the purchase price or exporter's sales price, as the case may be, with the sales, or other criteria applicable, on which a determination of fair value is to be based, reasonable allowances will be made for differences in quantities if it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due to such differences. In determining the question of allowances for differences in quantity, consideration will be given, among other things, to the practice of the industry in the country of exportation with respect to affording in the home market (or third country markets, where sales to third countries are the basis for comparison) discounts for quantity sales which are freely available to those who purchase in the ordinary course of trade. Where sales are not made in the home market (or third country markets, where applicable) in quantities comparable to the quantities sold in the United States, consideration may also be given to the practice of the industry in other countries (including the United States) with respect to affording discounts for quantity sales which are freely available to those who purchase in the ordinary course of trade.

(2) *Circumstances of sale.* (i) In comparing the purchase price or exporter's sales price, as the case may be, with the sales, or other criteria applicable, on which a determination of fair value is to be based, reasonable allowances will be made for bona fide differences in circumstances of sale if it is established to the satisfaction of the Secretary that the amount of any price

differential is wholly or partly due to such differences.

(ii) Differences in circumstances of sale for which such allowances will be made are limited, in general, to those circumstances which bear a reasonably direct relationship to the sales which are under consideration. Examples of differences in circumstances of sale for which reasonable allowances generally will be made are those involving differences in credit terms, guarantees, warranties, technical assistance, servicing, and assumption by a seller of a purchaser's advertising or other selling costs. Reasonable allowances will also generally be made for differences in commissions. Except in those instances where it is clearly established that the differences in circumstances of sale bear a reasonably direct relationship to the sales which are under consideration, allowances generally will not be made for differences in research and development costs, production costs, and advertising and other selling costs of a seller unless such costs are attributable to a later sale of merchandise by a purchaser; provided that reasonable allowances for selling expenses generally will be made in cases where a reasonable allowance is made for commissions in one of the markets under consideration and no commission is paid in the other market under consideration, the amount of such allowance being limited to the actual selling expense incurred in the one market or the total amount of the commission allowed in such other market, whichever is less.

(iii) In determining the amount of the reasonable allowances for any differences in circumstances of sale, the Secretary will be guided primarily by the effect of such differences upon the market value of the merchandise but, where appropriate, may also consider the cost of such differences to the seller, as contributing to an estimate of market value.

(3) *Similar merchandise.* In comparing the purchase price or exporter's sales price, as the case may be, with the selling price in the home market, or for exportation to countries other than the United States, in the case of similar merchandise described in subdivisions (C), (D), (E), or (F) of section 212(3), Antidumping Act, 1921, as amended (19 U.S.C. 170a(3)), due allowance shall be made for differences in cost of manufacture, if it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due to such differences.

(4) *Offering price.* In the determination of fair value, offers will be considered in the absence of sales.

(5) *Sales agency.* If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207 of the Antidumping Act, 1921, as amended (19 U.S.C. 166), the price at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in the determination of fair value.

(6) *Fictitious sales.* In the determination of fair value, no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account.

(7) *Sales at varying prices.* Where the prices in the sales which are being examined for a determination of fair value vary (after allowances provided for in subparagraphs (1), (2), and (3) of this paragraph), determination of fair value will take into account the prices of a preponderance of the merchandise thus sold or weighted averages of the prices of the merchandise thus sold.

(8) *Quantities involved and differences in price.* Merchandise will not be deemed to have been sold at less than fair value unless the quantity involved in the sale or sales to the United States, or the difference between the purchase price or exporter's sales price, as the case may be, and the fair value, is more than insignificant.

(Sec. 407, 42 Stat. 18; 19 U.S.C. 173)

§ 14.8 Determination of fact or likelihood of sales at less than fair value; determination of injury; finding of dumping.

(a) Upon receipt from the Commissioner of Customs of the information referred to in § 14.6(d), the Secretary of the Treasury will proceed as promptly as possible to determine whether the merchandise in question is in fact being, or is likely to be, sold in the United States or elsewhere at less than its fair value. If the determination is affirmative, the Secretary will advise the United States Tariff Commission accordingly.

(b) If the Tariff Commission determines that there is, or is likely to be, the injury contemplated by the statute, the Secretary of the Treasury will make the finding contemplated by section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), with respect to the involved merchandise.

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

§ 14.9 Action by the appraiser.

(a) Upon receipt of advice from the Commissioner of Customs pursuant to § 14.6(e), the appraiser shall withhold appraisement as to such merchandise entered, or withdrawn from warehouse, for consumption, not more than 120 days before the question of dumping was raised by or presented to the Secretary of the Treasury or his delegate and shall notify the collector and importer immediately of each lot of merchandise with respect to which appraisement is so withheld. Upon advice of a finding made in accordance with § 14.8(b), the appraiser shall give immediate notice thereof to the collector and the importer when any shipment subject thereto is imported after the date of the finding and information is not on hand for completion of appraisement of such shipment. Customs Form 6459 shall be used to notify the collector and importer whenever appraisement is withheld under this paragraph.

(b) If, before a finding of dumping has been made, or before a case has been closed without a finding of dumping, the appraiser is satisfied by information furnished by the importer or otherwise that the purchase price or exporter's sales price, in respect of any shipment, is not less than foreign market value (or, in the absence of such value, than the constructed value), he shall so advise the Commissioner and request authorization to proceed with his appraisement of that shipment in the usual manner.

(c) If a finding of dumping has been made, the appraiser shall require the importer or his agent to file a certificate of the importer on the appropriate one of the following forms. A separate certificate shall be required for each shipment.

Form 1.

NONEXPORTER'S CERTIFICATE

ANTIDUMPING ACT, 1921

Port of _____
Date _____, 19__
Re: Entry No. _____, dated _____, 19__.
Import carrier: _____. Arrived _____, 19__.

I certify that I am not the exporter as defined in section 207, Antidumping Act, 1921, of the merchandise covered by the aforesaid entry. I further certify that the merchandise was purchased for importation by _____ on _____, 19__, and that the purchase price is _____.

(Signed) _____

Form 2.

EXPORTER'S CERTIFICATE WHEN SALES PRICE IS KNOWN

ANTIDUMPING ACT, 1921

Port of _____
Date _____, 19__
Re: Entry No. _____, dated _____, 19__.
Import carrier: _____. Arrived _____, 19__.

I certify that I am the exporter as defined in section 207, Antidumping Act, 1921, of the merchandise covered by the aforesaid entry; that the merchandise is sold or agreed to be sold at the price stated in the attached statement; and that, if any of such merchandise is actually sold at any price different from the price stated therefor in the attached statement, I will immediately notify the appraiser of all the circumstances.

The merchandise was acquired by me in the following manner:

_____

and has been sold or agreed to be sold to _____

(Name and address)

at _____.

(Price)

(Signed) _____

Form 3

EXPORTER'S CERTIFICATE WHEN SALES PRICE IS NOT KNOWN

ANTIDUMPING ACT, 1921

Port of _____
Date _____, 19__
Re: Entry No. _____, dated _____, 19__.
Import carrier: _____. Arrived _____, 19__.

I certify that I am the exporter as defined in section 207, Antidumping Act, 1921, of the merchandise covered by the aforesaid entry, and that I have no knowledge as to any price at which such merchandise will be sold in the United States. I hereby agree that I will keep a record of the sales and will furnish the appraiser within 30 days after the sale of any of such merchandise a statement of each selling price. I further agree that, if any of

the merchandise has not been sold before the expiration of 6 months from the date of entry, I will so report to the appraiser upon such expiration date.

The merchandise was acquired by me in the following manner:

(Signed) ---

Form 4

EXPORTER'S CERTIFICATE WHEN MERCHANDISE IS NOT, AND WILL NOT BE, SOLD

ANTIDUMPING ACT, 1921

Port of ---

Date ---, 19--

Re: Entry No. ---, dated ---, 19--.

Import carrier: --- Arrived ---, 19--.

I certify that I am the exporter as defined in section 207, Antidumping Act, 1921, of the merchandise covered by the aforesaid entry, and that such merchandise has not been, and will not be, sold in the United States for the following reason: ---

(Signed) ---

(d) If an unqualified certificate on Form 4 is filed and the appraiser is satisfied that no evidence can be obtained to contradict it, he shall notify the collector promptly that the shipment will be appraised without regard to the Antidumping Act and proceed to appraise the merchandise in the usual manner.

(e) If the importer fails to file an appropriate certificate within 30 days following notification by the appraiser that a certificate is required under paragraph (c) of this section, the appraiser shall proceed upon the basis of the best information available.

(f) In calculating purchase price or exporter's sales price, as the case may be, there shall be deducted the amount of any special dumping duties which are, or will be, paid by the manufacturer, producer, seller, or exporter, or which are, or will be, refunded to the importer by the manufacturer, producer, seller, or exporter, either directly or indirectly.

(Secs. 201, 202, 203, 204, 208, 407, 42 Stat. 11, as amended, 14, 18; sec. 486, 46 Stat. 725, as amended; 19 U.S.C. 160, 161, 162, 163, 167, 173, 1486)

§ 14.10 Release of merchandise; bond.

(a) When the collector has received a notice of withheld appraisement provided for in § 14.9(a), or when he has been advised of a finding provided for in § 14.8(b), and so long as such notice or finding is in effect, he shall withhold release of any merchandise of a class or kind covered by such notice or finding which is then in his custody or is thereafter imported, unless an appropriate bond is filed or is on file, as specified hereafter in this section, or unless he is advised by the appraiser that the merchandise covered by a specified entry will be appraised without regard to the Antidumping Act.

(b) If the merchandise is of a class or kind covered by a notice of withheld appraisement provided for in § 14.9(a) or by a finding provided for in § 14.8(b), a single consumption entry bond covering the shipment, in addition to any other required bond, shall be furnished by the person making the entry or withdrawal, unless

(1) A bond is required under paragraph (c) of this section, or

(2) In cases in which there is no such requirement the collector is satisfied that the bond under which the entry was filed is sufficient. The penalty of any additional bond required under this paragraph shall be in such amount as will assure payment of any special duty that may accrue by reason of the Antidumping Act, but in no case less than $100.

(c) If the merchandise is of a class or kind covered by a finding provided for in § 14.8(b) and the importer or his agent has filed a certificate on Form 3 (§ 14.9(c)), the bond required by section 208 of the Antidumping Act, 1921, as amended (19 U.S.C. 167), shall be on customs Form 7591. In such case, a separate bond shall be required for each entry or withdrawal, and such bond shall be in addition to any other bond required by law or regulation. The record of sales required under the conditions of the bond on customs Form 7591 shall identify the entry covering the merchandise and show the name and address of each purchaser, each selling price, and the date of each sale. The penalty of such bond shall be in an amount equal to the estimated value of the merchandise covered by the finding.

(Secs. 208, 407, 42 Stat. 14, 18; 19 U.S.C. 167, 173)

§ 14.11 Conversion of currencies.

In determining the existence and amount of any difference between the purchase price or exporter's sales price and the foreign market value (or, in the absence of such value, the constructed value) for the purposes of § 14.7, or of 201(b) or 202(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b), 161(a)), any necessary conversion of a foreign currency into its equivalent in United States currency shall be made in accordance with the provisions of section 522, Tariff Act of 1930, as amended (31 U.S.C. 372) and § 16.4 of this chapter, (a) as of the date of purchase or agreement to purchase, if the purchase price is an element of the comparison, or (b) as of the date of exportation, if the exporter's sales price is an element of the comparison.

(Secs. 201, 202, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 161, 173)

§ 14.12 Modification or revocation of finding.

An application for the modification or revocation of any finding made as provided for in § 14.8(b) will receive due consideration if submitted in writing to the Commissioner of Customs together with detailed information concerning any change in circumstances or practice which has obtained for a substantial period of time, or other reasons, which the applicant believes will establish that the basis for the finding no longer exists with respect to all or any part of the merchandise covered thereby. Notice of intent to modify or revoke a finding will be published by the Secretary in the FEDERAL REGISTER. Comments received from interested parties within 30 days following date of publication will be given consideration.

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

§ 14.13 Publication of findings.

(a) Each determination made in accordance with § 14.8(a), whether such determination is in the affirmative or in the negative, and each finding made in accordance with § 14.8(b), will be published in the FEDERAL REGISTER, together with a statement of the reasons therefor. Findings made in accordance with § 14.8 (b) will be published also in a weekly issue of the Treasury Decisions.

(b) The following findings of dumping are currently in effect:

Merchandise	Country	T.D.	Modified by—
Hardboard	Sweden	53567	54168 54199 55006 55019 55115 55213
Cast iron soil pipe, other than "American Pattern".	United Kingdom.	53934	----------
Bicycles	Czechoslovakia.	55243	----------
Portland cement, other than white nonstaining portland cement	Sweden	55369	----------
Do	Belgium	55428	----------
Do	Dominican Republic.	55883	----------
Portland gray cement	Portugal	55501	----------

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

PART 15—RELIEF FROM DUTIES ON MERCHANDISE LOST, STOLEN, DESTROYED, INJURED, ABANDONED, OR SHORT-SHIPPED

Sec.

15.1 Casualty, loss or theft, abatement or refund of duty for; application; evidence; allowance.
15.2 Perishable merchandise condemned; allowance.
15.3 Abandonment of merchandise under section 506 (1), Tariff Act of 1930
15.4 Abandonment or destruction of merchandise in bond.
15.5 Destruction of prohibited articles.
15.6 Disposition of abandoned merchandise and proceeds of sale.
15.7 Excessive moisture and other impurities; application for allowance; procedure.
15.8 Shortages; lost packages; deficiencies in contents of packages.
15.10 Articles damaged and worthless at the time of importation.

AUTHORITY: §§ 15.1 to 15.10 issued under R.S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 15.1 Casualty, loss or theft, abatement or refund of duty for; application; evidence; allowance.[1]

(a) No abatement or refund will be made under section 563(a), Tariff Act of 1930, as amended,[2] unless the importer or his agent shall file within 30 days from the date of his discovery of the loss, theft, injury, or destruction an application in duplicate on customs Form 4315, and within 90 days from the said date the evidence of such loss, theft, injury, or destruction hereinafter required is submitted.

(b) The application and evidence shall be filed with the collector of customs at the port where the loss, theft, injury, or destruction occurred. In the case of total loss by fire or other casualty of merchandise while in transportation under bond, the application and evidence shall be filed at the port at which the transportation entry was made. In the case of partial destruction of or injury to such merchandise, the application and evidence shall be filed with the collector at the port of destination, unless the merchandise is returned to the port at which the transportation entry was made, in which case the application shall be filed at that port. In the case of partial destruction or injury, no application shall be entertained unless the appraiser shall have had an opportunity to examine the merchandise or the remainder thereof for the purpose of fixing the percentage of injury or destruction. Whether the duty involved is ad valorem, specific, or compound, the percentage of injury for the purpose of the allowance shall be determined by comparing the market value of comparable sound merchandise with the net salvage value of the injured merchandise computed on the basis of the market value of comparable injured merchandise, such comparison to be made as of the time and place of examination.

(c) In the case of alleged loss or theft while the merchandise is in the appraiser's stores, there shall be filed a declaration of the importer, owner, or ultimate consignee that he did not receive the merchandise and that to the best of his knowledge and belief it was lost or stolen as alleged in the application. In case the alleged loss or theft consisted of only a part of an examination package and was discovered after the release of the package from customs custody, the following evidence shall be submitted:

(1) A declaration of each cartman, lighterman, or other carrier handling the package between the appraiser's stores and the place of delivery, setting forth the condition of the package at the time of receipt and delivery by him and whether or not there was any abstraction of the merchandise while the package was in his possession.

(2) A declaration of the person who first received the package for the importer, owner, or consignee as to whether or not he examined the package at the time of receipt, and, if so, as to its condition at that time.

(3) A declaration of the person who opened the package after release from customs custody that the alleged missing merchandise was not found by him in the said package or elsewhere.

(d) In the case of injury or destruction by accidental fire or other casualty, the following evidence shall be submitted by the applicant:

(1) A declaration of the master of the vessel, the conductor or driver of the vehicle, the proprietor of the warehouse, or other person (except a customs officer) having charge of the merchandise at the time of the casualty, stating the time, place, and nature of such casualty; that the merchandise was on board the vessel or vehicle, in the warehouse, or otherwise in his charge, as the case may be, at the time of the casualty; and that it was totally destroyed and there is no probability of recovering or saving any part thereof, or that it was injured as the result of the casualty.

(2) The bill of lading, the entry, and the invoice covering the merchandise, or certified copies of the foregoing, unless such documents are already in the possession of the collector at the port where the claim is filed.

(3) A copy of the insurance appraiser's report, if any.

(e) When the application and evidence specified in this section have been received and examined by the collector of customs, he shall determine whether the desired abatement or refund shall be made and notify the applicant of his decision.

(f) The applicant may file with the collector of customs a petition addressed to the Commissioner of Customs for a review of the collector's decision. Such petition shall be filed in duplicate within 30 days from the date of the notice of the collector's decision, shall completely identify the case, and shall set forth in detail the objections to the collector's decision. When such a petition has been filed, the collector shall promptly transmit both copies thereof and the entire file to the Bureau, together with a full statement of his views. When the Bureau's decision has been received, the collector shall proceed in conformity therewith.

(g) The collector may waive the production of any of the evidence above required if the validity of the claim is otherwise established to his satisfaction.

(Sec. 563, 46 Stat. 746, as amended; 19 U. S. C. 1563)

§ 15.2 Perishable merchandise condemned; allowance.

When fruit or other perishable merchandise has been condemned within 10 days after landing,[3] and the notice has been filed pursuant to section 506(2),

---

[1] This procedure is not applicable in the case of merchandise missing or found worthless by the appraiser and so reported in his appraisement report. See §§ 15.8, 15.10, and 18.6 of this chapter.

[2] "In no case shall there be any abatement or allowance made in the duties for any injury, deterioration, loss, or damage sustained by any merchandise while remaining in customs custody, except that the Secretary of the Treasury is authorized, upon production of proof satisfactory to him of the loss or theft of any merchandise while in the appraiser's stores, or of the actual injury or destruction, in whole or in part, of any merchandise by accidental fire or other casualty, while in bonded warehouse, or in the appraiser's stores, or while in transportation under bond, or while in the custody of the officers of the customs, although not in bond, or while within the limits of any port of entry and before having been landed under the supervision of the officers of the customs, to abate or refund, as the case may be, the duties upon such merchandise, in whole or in part, and to pay any such refund out of any moneys in the Treasury not otherwise appropriated, and to cancel any warehouse bond or bonds, or enter satisfaction thereon in whole or in part, as the case may be, but no abatement or refund shall be made in respect of injury or destruction of any merchandise in bonded warehouse occuring after the expiration of three years from the date of importation. The decision of the Secretary of the Treasury as to the abatement or refund of the duties on any such merchandise shall be final and conclusive upon all persons.

"The Secretary of the Treasury is authorized to prescribe such regulations as he may deem necessary to carry out the provisions of this subdivision and he may by such regulations limit the time within which proof of loss, theft, injury, or destruction shall be submitted, and may provide for the abatement or refund of duties, as authorized herein, by collectors of customs in cases in which the amount of the abatement or refund claimed is less than $25 and in which the importer has agreed to abide by the decision of the collector. The decision of the collector in any such case shall be final and conclusive upon all persons.

"Any case pending before the United States Customs Court upon the effective date of this Act, under the provisions of section 563 of the Tariff Act of 1922, may, with the consent of the parties and the permission of the court, be transferred to the Secretary of the Treasury, or to the collector, for consideration and final determination in accordance with the provisions of this subdivision." (Tariff Act of 1930, sec. 563 (a) as amended; 19 U. S. C. 1563 (a))

[3] The date of landing in the case of merchandise forwarded in bond without appraisement is the date of arrival at the port of destination.

out of any moneys in the Treasury not other- 19 U. S. C. 1555 (a))

Tariff Act of 1930,[4] an investigation shall be conducted before an allowance may be made in the liquidation of the entry in order to determine whether the conditions of the statute have been satisfied. Such allowance shall be limited to perishable goods condemned by the health officers or authorities in the original package, unless segregation of the goods was under constant customs supervision at the importer's expense.

(Sec. 506(2), 46 Stat. 732; 19 U.S.C. 1506(2))

§ 15.3 Abandonment of merchandise under section 506(1), Tariff Act of 1930.

(a) A written notice of any abandonment under section 506 (1), Tariff Act of 1930,[5] shall be filed with the collector of customs at the port where the entry is filed within 30 days after the date of entry[6] or, in the case of examination packages, within 30 days after release, whether or not delivery is taken by the importer immediately after entry or release as the case may be.

(b) The party abandoning the merchandise shall identify it with that described in the invoice used in making entry to the satisfaction of the collector, who shall cause such examination thereof to be made as may be necessary to verify such identification. When repacking is necessary to segregate the abandoned merchandise from the remainder of the shipment, such repacking shall be done at the expense of the party in interest and under customs supervision.

(Sec. 506, 46 Stat. 732; 19 U. S. C. 1506)

§ 15.4 Abandonment or destruction of merchandise in bond.

(a) Applications for the abandonment or destruction of merchandise in bond pursuant to section 563(b) or 557(c), Tariff Act of 1930, as amended,[7] shall be filed with the collector by the consignee or his duly qualified representative on customs Form 3499, with the title modified to read "Application and Permit To Abandon (or Destroy) Goods in Bond." When an application is for permission to destroy, the proposed method of destruction shall be stated in the application and be subject to the approval of the collector. No application to abandon or destroy warehoused merchandise shall be approved unless concurred in by the warehouse proprietor.

(b) A person in whom the right to withdraw merchandise entered for warehousing is vested in accordance with § 8.39 or § 18.16 (a) of this chapter is entitled exclusively to the rights and privileges initially held by the consignee in respect of abandonment or destruction of such merchandise.

(c) When in the opinion of the collector the abandonment of merchandise under section 563 (b), Tariff Act of 1930, as amended, will involve any expense or cost to the Government, or the merchandise is worthless or unsalable, or cannot be sold for a sum sufficient to pay the expenses of sale, abandonment under such section 563 (b) shall not be permitted unless the applicant deposits a sum which in the opinion of the collector will be sufficient to save the Government harmless from any expense or cost resulting from such abandonment. The sum so advanced shall be placed in a special deposit account and expended to cover the cost of destruction or to meet any deficit should the merchandise be sold and the proceeds of sale be less than the expenses of such sale. After meeting such expenses or deficit, any balance remaining shall be refunded to the applicant. However, the applicant may elect to destroy such merchandise under customs supervision, pursuant to the provisions of section 557, Tariff Act of 1930, as amended.

(d) Where the conditions specified in paragraphs (a)–(c) of this section are met, collectors of customs may grant applications, but in any case where doubt exists the case shall be referred to the Bureau.

(Secs. 557 (c), 563 (b), 46 Stat. 744, as amended, 746; 19 U. S. C. 1557 (c), 1563 (b))

§ 15.5 Destruction of prohibited articles.

Merchandise regularly entered in good faith and denied admission into the United States by any Government agency after its release from customs custody, pursuant to a law or regulation in force on the date of entry or withdrawal, may be destroyed under government supervision. In such cases the destroyed merchandise is exempt from duty and any duties collected thereon shall be refunded.[8] (See § 8.49 (b) of this chapter.)

(Sec. 558 (a), 46 Stat. 744, as amended; 19 U.S.C. 1558(a))

§ 15.6 Disposition of abandoned merchandise and proceeds of sale.

(a) The disposition of merchandise abandoned pursuant to section 506(1) or 563(b), Tariff Act of 1930, as amended, and not retained for official use, shall be governed by the regulations of the General Services Administration applicable to the Bureau of Customs. If the merchandise is cleared for sale, it shall be sold in accordance with the applicable provisions of Part 20 of this chapter, unless it is worthless or it shall appear probable that the expenses of sale will exceed the proceeds. If the merchandise is sold, no part of the proceeds shall be returned to the importer.

(b) If the merchandise or any part thereof is worthless or it appears probable that the expenses of its sale would exceed the proceeds, it shall be destroyed or otherwise disposed of as the collector may direct. No credit for abandonment of such merchandise shall be given unless a customs officer, who has satisfied himself as to the quantity of the abandoned portion of the shipment and as to the destruction or removal from the control of the applicant of the entire quantity of the goods covered by the collector's instructions as to disposition, shall certify on customs Form 4613 to those facts to avoid the possibility of any part of the same goods being made the subject of another application.

(Secs. 506 (1), 563 (b), 46 Stat. 732, 746; 19 U.S.C. 1506(1), 1563(b))

---

[4] Allowance shall be made in the estimation and liquidation of duties under regulations prescribed by the Secretary of the Treasury in the following cases:

* * * * *

"(2) *Perishable merchandise, condemned.*—Where fruit or other perishable merchandise has been condemned at the port of entry, within ten days after landing, by the health officers or other legally constituted authorities, and the consignee, within five days after such condemnation, files with the collector written notice thereof, an invoiced description and the location thereof and the name of the vessel or vehicle in which imported." (Tariff Act of 1930, sec. 506 (2); 19 U. S. C. 1506 (2))

[5] "Allowance shall be made in the estimation and liquidation of duties under regulations prescribed by the Secretary of the Treasury in the following cases:

"(1) *Abandonment within thirty days.*—Where the importer abandons to the United States within thirty days after entry in the case of merchandise not sent to the appraiser's stores for examination, or within thirty days after the release of the examination packages or quantities of merchandise in the case of merchandise sent to the appraiser's stores for examination, any imported merchandise representing 5 per centum or more of the total value of all the merchandise of the same class or kind entered in the invoice in which the item appears, and delivers, within the applicable thirty-day period, the portion so abandoned to such place as the collector directs unless the collector is satisfied that the merchandise is so far destroyed as to be nondeliverable," (Tariff Act of 1930, sec. 506 (1); 19 U. S. C. 1506 (1))

[6] The date of entry is the date the entry is made as stated in § 8.4 (d), (e), or (f) of this chapter.

[7] "Under such regulations as the Secretary of the Treasury may prescribe and subject to any conditions imposed thereby the consignee may at any time within three years from the date of original importation, abandon to the Government any merchandise in bonded warehouse, whereupon any duties on such merchandise may be remitted or refunded as the case may be, but any merchandise so abandoned shall not be less than an entire package and shall be abandoned in the original package without having been repacked while in a bonded warehouse (other than a bonded manipulating warehouse)." (Tariff Act of 1930, sec. 563 (b), as amended; 19 U. S. C. 1563 (b))

"Merchandise entered under bond, under any provision of law, may, upon payment of all charges other than duty on the merchandise, be destroyed, at the request and at the expense of the consignee, within the bonded period under customs supervision, in lieu of exportation, and upon such destruction the entry of such merchandise shall be liquidated without payment of duty and any duties collected shall be refunded." (Tariff Act of 1930, sec. 557 (c), as amended; 19 U. S. C. 1557 (c))

[8] "No remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed because of the exportation or destruction of any merchandise after its release from the custody of the Government, except in the following cases:

* * * * *

"(2) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to a law of the United States and under such regulations as the Secretary of the Treasury may prescribe; * * *." (Tariff Act of 1930, sec. 558 (a), as amended; 19 U.S.C. 1558 (a))

§ 15.7 Excessive moisture and other impurities; application for allowance; procedure.

(a) An application for an allowance for excessive moisture or other impurities under section 507, Tariff Act of 1930,[9] shall be made on customs Form 4317 and filed with the collector of customs. The application shall be filed within 10 days after the report of weight has been received by the collector or within 10 days after the date upon which the entry or a related document was endorsed to show that invoice weight has been accepted by the entry officer, customs inspector, or other customs officer.

(b) The collector shall cause such investigation to be made as may be necessary to determine whether or not the merchandise contains excessive moisture or other impurities not usually found in or upon such or similar merchandise, together with the amount thereof, and, if necessary, may refer the application to the appraiser for such determination.

(c) If the collector is satisfied from the reports received that the claim is valid, due allowance shall be made in the liquidation of the entry.

(Sec. 507, 46 Stat. 732; 19 U. S. C. 1507)

§ 15.8 Shortages; lost packages; deficiencies in contents of packages.

(a) Allowance shall be made in the assessment of duties for lost or missing merchandise included in the entry whenever it is established to the satisfaction of the collector of customs before the liquidation of the entry becomes final that the merchandise claimed to be lost or missing was not imported. The foregoing shall not apply in the case of merchandise arriving under an I. T. entry.[10]

(b) Allowance for deficiency in any package reported to the collector by the appraiser or other customs officer shall be made in the liquidation of the entry; but no customs officer except an appraiser or other customs officer making an examination contemplated by section 499, Tariff Act of 1930, as amended, shall report a supposed deficiency to the collector unless it is established to the satisfaction of the reporting officer that the merchandise was not imported.

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

§ 15.10 Articles damaged and worthless at the time of importation.

(a) When a shipment of nonperishable merchandise, or any portion thereof which shall have been segregated from the remainder of the shipment under customs supervision at the expense of the importer, is found by the appraising officer to be entirely without commercial value by reason of damage or deterioration and is so reported to the collector by the appraiser, an allowance in duties on such merchandise on the ground of nonimportation shall be made in the liquidation of the entry.

(b) A similar allowance may be made in the case of perishable merchandise in accordance with the following procedure and subject to the conditions set forth therein:

(1) An application for such allowance shall be filed with the collector on customs Form 4373, in duplicate, within 96 hours after the unlading of the merchandise and before any of the shipment involved has been removed from the pier pursuant to the entry permit.

(2) Should an application filed in accordance with subparagraph (1) of this paragraph be withdrawn, the merchandise involved shall thereafter be released upon presentation of an appropriate permit.

(3) Allowance in duty shall be made in the liquidation of the entry on such of the merchandise covered by the application as is reported by the appraiser to be entirely without commercial value by reason of damage or deterioration.

[9] "The Secretary of the Treasury is hereby authorized to prescribe and issue regulations for the ascertainment of tare upon imported merchandise, including the establishment of reasonable and just schedule tares therefor, but in no case shall there by any allowance for draft or for impurities, other than excessive moisture and impurities not usually found in or upon such or similar merchandise." (Tariff Act of 1930, sec. 507; 19 U. S. C. 1507)

[10] See § 18.6 of this chapter.

PART 16—LIQUIDATION OF DUTIES

Sec.
16.1 Liquidation required.
16.2 Procedure; notice of liquidation.
16.3 Suspension of liquidation.
16.4 Conversion of currency.
16.5 Weight, gauge, or measure.
16.6 Tare.
16.7 Articles in examination packages not specified in the invoice.
16.9 Commingling of goods.
16.10 Change in classification or value; higher or lower rate; effective date.
16.10a Tariff classification of prospective imports.
16.11 Warehouse entries.
16.12 Appraisement, baggage, informal, and mail entries.
16.13 Errors, mistakes, and inadvertencies, correction of.
16.14 Limitation upon reliquidation.
16.15 Applicability of laws relating to customs duties.
16.18 Additional duties on articles not legally marked.
16.19 Discriminating duties.
16.20 Duties contingent upon foreign export duties, charges, or restrictions.
16.21 Dumping duty; notice to importer.
16.22 Method of computing dumping duty.
16.23 Cuban preference.
16.24 Countervailing duties.
16.25 Special duties on articles imported under agreements in restraint of trade.
16.26 Philippine trade.

AUTHORITY: §§ 16.1 to 16.26 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 16.1 Liquidation required.[1]

All entries covering imported merchandise, except temporary importation bond entries and those for transportation in bond or for immediate exportation, shall be liquidated.[2]

(Sec. 505, 46 Stat. 732; 19 U.S.C. 1505)

§ 16.2 Procedure; notice of liquidation.

(a) In the computation of duty on entries, ad valorem rates shall be applied to the values in even dollars, fractional parts of a dollar less than 50 cents being disregarded and 50 cents or more being considered as $1, all merchandise in the same invoice subject to the same rate of duty to be treated as a unit. When necessary, fractional parts of a dollar, whether more or less than 50 cents, shall be dropped or taken up as whole dollars in order not to increase or decrease the total dutiable value of the invoice. If in such cases it is necessary to drop fractional parts of a dollar amounting to 50 cents or more, the lower fractions shall be dropped, and if it is necessary to take up as whole dollars fractional parts less than 50 cents, the larger fractions shall be taken. In the case of two equal fractions, the one subject to the lower rate of duty shall be dropped or taken up, as the case may be. In determining a rate of duty dependent upon value, fractional parts of a dollar shall be considered. Except as specified in paragraph (b) of this section, if a rate of duty is specific and $1 or less per unit, fractional quantities, if less than one-half, shall be disregarded, and if one-half or more shall be treated as a whole unit. Subject to the same exception, if a specific rate is more than $1 per unit, duty shall be assessed upon the exact quantity with any fraction part expressed in the form of a decimal extended to two places.

(b) In the computation of internal-revenue taxes on distilled spirits imported in barrels, kegs, or similar containers, the quantity shall be ascertained in accordance with the internal-revenue regulations. Where distilled spirits are imported in bottles, jugs, or similar containers, the internal-revenue taxes shall be collected on the exact quantity contained in each case or other outer container, fractional parts of a gallon being carried to three decimal places. The procedure for collecting internal-revenue taxes on wines shall be on the basis of a wine gallon of liquid measure equiv-

[1] "The consignee shall deposit with the collector, at the time of making entry, unless the merchandise is entered for warehouse or transportation, or under bond, the amount of duty estimated to be payable thereon. Upon receipt of the appraiser's report and of the various reports of landing, weight, gauge, or measurement the collector shall ascertain, fix, and liquidate the rate and amount of duties to be paid on such merchandise as provided by law and shall give notice of such liquidation in the form and manner prescribed by the Secretary of the Treasury, and collect any increased or additional duties due or refund any excess of duties deposited as determined on such liquidation." (Tariff Act of 1930, sec. 505; 19 U.S.C. 1505.)

[2] The liquidation of an entry is the final computation or ascertainment of the duties accruing thereon. (See T.D.'s 31032, 35123, and 42313.)

alent to 231 cubic inches and shall be paid proportionately on all fractional parts of a wine gallon; fractions of less than one-tenth gallon being converted to the nearest one-tenth gallon, and five-hundredths gallon being converted to the next full one-tenth gallon. Internal-revenue taxes on beer, ale, porter, stout, and other similar fermented beverages, including sake, of any name or description containing one-half of 1 per centum or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor, shall be collected in accordance with I. R. C. section 5051 (a). In the computation of duties on alcoholic beverages provided for in Schedule 1, Part 12, Tariff Schedules of the United States, which are also subject to internal-revenue taxes, the methods prescribed for the computation of internal-revenue taxes on such beverages shall be followed.

(c) When the amount of duty assessed by the collector in the liquidation of an entry (other than informal entry on customs Form 5119 or 5119–A, a mail entry on customs Form 3419 or a baggage entry on customs Form 5123, 6059, or 6063) does not differ by so much as $3 from the total estimated duties, including any supplemental estimated duties, deposited, the liquidator shall endorse the entry "as entered"[3] over his initials in red ink. If there is a difference of $3 or more between the duties so assessed and the total estimated duties deposited, the liquidator shall make a new statement of duties over his initials in red ink. The same procedure shall be followed with respect to internal-revenue taxes, but the assessments of duties and internal-revenue taxes shall be separately stated when both accrue on the same entry. In the case of each informal, mail, or baggage entry excepted above, the amount or amounts of duties and taxes computed by a customs officer when the entry is prepared by, or filed with, him shall be the liquidated assessment by the collector. In the event of a reliquidation of a mail or baggage entry for any reason, the reliquidated duties shall be exactly assessed, if the importer so requests, even though the difference between the liquidated and reliquidated amounts is less than $3; otherwise, any difference under $3 shall be disregarded.

(d) After liquidation by the collector, formal entries, except free consumption entries liquidated "As Entered" and permanent exhibition entries liquidated "Free" shall be scheduled promptly on a bulletin notice of liquidation, customs Form 4333. Free consumption entries liquidated "As Entered" and permanent exhibition entries liquidated "Free" shall be scheduled promptly on a bulletin notice of liquidation, customs Form 4335. When free consumption entries in an unbroken series of numbers are liquidated free on the same day, the first and last entry numbers may be shown on the bulletin notice, e.g., "576/863," instead of listing every number in the unbroken series. For the notice of liquidations of appraisement, baggage, informal, and mail entries, see § 16.12. The bulletin notice of liquidation shall be posted as soon as possible in a conspicuous place in the customhouse for the information of importers or lodged at some other suitable place in the customhouse in such a manner that it can readily be located and consulted by all interested persons, who shall be directed to that place by a notice maintained in a conspicuous place in the customhouse stating where notices of liquidations of entries are to be found. The bulletin notice of liquidation shall be dated with the date of posting or, if not posted, with the date it is lodged in the above-described place for the information of importers. The entries for which the bulletin notice of liquidation has been prepared shall be stamped "Liquidated," with the date of liquidation, which shall be the same as the date of the bulletin notice of liquidation. Such stamping shall be deemed the legal evidence of liquidation.

(e) Warehouse withdrawals for consumption covering merchandise manipulated under section 562, Tariff Act of 1930, as amended, after liquidation of the warehouse entry, or byproducts and wastes withdrawn from class 6 warehouses, shall be liquidated and notice thereof on customs Form 4333 posted or lodged as specified in paragraph (d) of this section.

(f) Notices on customs Form 4333 of all liquidations of drawback entries or refusals to pay drawback claims shall be posted or lodged in the same manner as the notices of liquidation of import entries.

(g) The bulletin notice of liquidations, customs Form 4333 or 4335, shall be posted or lodged at the port of entry (or customs station, when the entries listed were filed at a customs station outside the limits of a port of entry).

(Sec. 505, 46 Stat. 732, sec. 321, 52 Stat. 1081, as amended; 19 U. S. C. 1321, 1505)

§ 16.3 Suspension of liquidation.

(a) The liquidation of entries involved in reappraisement or on which bonds are open for the production of documents affecting the rate of duty shall be suspended pending a final decision on the reappraisement or a performance or nonperformance under the bond.

(b) The liquidation of entries covering articles entered at a conditionally reduced rate under item 155.40, 155.41, or 176.46, Tariff Schedules of the United States, or conditionally free of duty under item 131.37, 176.44, 480.05, 519.05, or 907.15, Tariff Schedules of the United States, shall be suspended pending the production of the proof of use required, by §§ 10.88, 10.100, 10.101, 10.113, 13.4, 54.4, and 54.7 of the regulations of this chapter. Upon the production of such proof, or upon failure to produce the proof within the required time, the entries shall be liquidated accordingly.

(c) Liquidation of each warehouse or rewarehouse entry covering any tariff-rate quota commodity shall be suspended until all such merchandise covered by the entry has been accounted for within the bonded period by withdrawal, abandonment, or destruction, or until the bonded period has expired if the merchandise has not been so accounted for before that time. When the entry is liquidated, such of the merchandise as has been withdrawn for transportation to another port shall be excluded from the liquidation. This same procedure shall be followed in the case of alcoholic beverages provided for in Schedule 1, Part 12, Tariff Schedules of the United States, and subject to internal-revenue taxes, and in the case of wool or hair. The liability for duty or tax with respect to any such quota merchandise or alcoholic beverage which has been withdrawn for transportation and delivered into customs custody at the port of destination shall be determined by a liquidation of the rewarehouse entry made in the district where the merchandise is withdrawn for consumption or for exportation.

(d) The internal revenue taxes imposed on imported tobacco materials, tobacco products, cigarette papers, and cigarette tubes under 26 U.S.C. 5701 or 7652 are determined in accordance with 26 U.S.C. 5703 at the time of removal; that is, on the quantity removed from customs custody under the entry or withdrawal for consumption. The duties unlike those on alcoholic beverages, do not necessarily apply only to such quantities. Liquidation of warehouse or rewarehouse entries of such articles shall be suspended until all such merchandise covered by the entry has been accounted for within the bonded period by withdrawal, abandonment, or destruction, or until the bonded period has expired if the merchandise has not been so accounted for before that time. The liability for duty or tax with respect to any such articles withdrawn for transportation and delivered into customs custody at the port of destination shall be determined by a liquidation of the rewarehouse entry made in the district where the merchandise is withdrawn for consumption or exportation. Any such articles so withdrawn shall be excluded from the liquidation of the original warehouse entry.

(Sec. 505, 46 Stat. 732; 19 U.S.C. 1505)

§ 16.4 Conversion of currency.

(a) In determining the percentage of variation between the rate proclaimed by the Secretary of the Treasury and the Federal reserve rate,[5] the difference be-

[3] "(a) The Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, is hereby authorized, under such regulations as he shall prescribe, to—

"(1) disregard a difference of less than $3 between the total estimated duties or taxes deposited, or the total duties or taxes tentatively assessed, with respect to any entry of merchandise and the total amount of duties or taxes actually accruing thereon; * * *." (Tariff Act of 1930, sec. 321, as amended; 19 U. S. C. 1321)

[5] "(b) *Proclaimed value basis of conversion.* For the purpose of the assessment and collection of duties upon merchandise imported into the United States on or after the day of the enactment of this Act, wherever it is necessary to convert foreign currency into currency of the United States, such conversion, except as provided in subdivision (c), shall be made at the values proclaimed by the Secretary of the Treasury under the pro-

tween the two rates shall be divided by the Federal reserve rate.

(b) The date of exportation for currency conversion shall be fixed in accordance with § 14.3 of this chapter.

(c) Whenever the Federal Reserve Bank of New York advises that its certification of rates for a currency is being suspended pending determination of the question whether it will certify multiple rates for that currency, the customs field officers will be so informed. In any case where for the purpose of the assessment and collection of duties it is necessary to determine the proper rate or rates for that currency for a date during the period of suspension of certification by the Federal Reserve Bank, appraisement shall be withheld and liquidation suspended. When certification is resumed by the Bank, the rate or rates certified will be published either in the Treasury Decisions or in Customs Information Exchange circulars. Currency information received from the Bank, or otherwise available, which might be helpful in calculating estimated duties and in appraisement and liquidation will be furnished to the customs field officers. For purposes of calculating estimated duties by the Bank, the rate or rates certified by the Bank, the collector shall use the rate or rates appearing to be applicable under the instructions in this section to the type of merchandise involved; and when it is not yet known what certified rate or rates are applicable or no rate has been certified, he shall use the highest rate or combination of rates (i. e., the rate or combination of rates showing the highest amount of United States money), certified or uncertified as the case may be, which could be applicable.

(d) For the currency of each foreign country listed at the end of this paragraph, there will be published in the Treasury Decisions, for the quarter beginning January 1, 1957, and for each quarter thereafter, the rate or rates first certified by the Federal Reserve Bank of New York for such foreign currency for a day in that quarter. The rate or rates of exchange to be used for customs purposes for any day of exportation within the quarter shall be the rate or rates so certified and published, unless the rate or rates certified by the Federal Reserve Bank for the day of exportation (1) vary by 5 per centum or more from such first certified and published rate or rates in which case notice of such variance and the rate or rates certified for such day shall be published in the Treasury Decisions and such rate or rates shall be used for customs purposes in connection with merchandise exported on such day; or (2) vary by less than 5 per centum from the proclaimed value in which case notice of such variance shall be published in the Treasury Decisions and the proclaimed value shall be used for customs purposes in connection with merchandise exported on such day.

Australia	Japan
Austria	Mexico
Belgium	Netherlands
British Malaysia	New Zealand
Canada	Norway
Ceylon	Portugal
Finland	Republic of South Africa
France (Metropolitan)	Spain
Germany	Sweden
India	Switzerland
Ireland	United Kingdom
Italy	

(e) When the Federal Reserve Bank of New York certifies two or more rates of exchange for the currency of any country, those rates will be published as provided in paragraphs (c) and (d) of this section. Thereafter when the appraiser and collector are in possession of sufficient information to apply the instructions in this section, they shall proceed, respectively, with the appraisement and liquidation in the case of any importation of merchandise exported on a date for which the Federal Reserve Bank of New York certifies such multiple rates, according to the following procedure:

(1) Except as prescribed in this section, no rate of exchange shall be used for customs purposes under this section other than a rate or rates certified by the Federal Reserve Bank of New York. If there is a proclaimed value of the currency involved which varies by less than 5 per cent from any certified rate otherwise applicable, such proclaimed value shall be used in lieu of such certified rate.

(2) Whenever appraisement is made in a multiple-rate currency, or the use of rates of exchange for a multiple-rate currency has been necessary in connection with the determination whether the foreign or export value is the higher, or the use of rates for a multiple-rate currency appears involved in any other manner in the process of appraisement or liquidation, the appraiser shall include in his report to the collector an advisory statement of his views as to what type of certified rate or combination of types of certified rates is applicable to the merchandise involved. If there is disagreement, which cannot be resolved locally, between the collector and appraiser as to what type of certified rate or combination of types of certified rates is applicable in a particular case, a detailed report shall be submitted to the Bureau so that appropriate instructions may be issued.

(3) For all purposes of appraisement and assessment of duties, the type of rate used for any value expressed in a currency for which two or more rates have been certified shall be the type of certified rate, designated by the Federal Reserve Bank of New York, which the appraiser or collector is satisfied, from information in his own files, information obtained and presented to him by the importer, or information obtained from other sources, is uniformly applicable under the laws and regulations of the country of exportation to the particular class of commodity on the date of exportation. In cases where two or more types of certified rates are uniformly applicable on a percentage basis, each type of certified rate shall be used for the percentage of the value to which it is applicable. The percentages used shall be those which reflect realistically the percentage for which each type of rate is uniformly applicable under the laws and regulations of the country of exportation on the date of exportation.

(4) If the appraiser or collector has credible information that the type of rate or combination of types of rates which would otherwise be applicable under subparagraph (3) of this paragraph was not required or permitted, as the case may be, under the laws and regulations of the country of exportation to be used uniformly during any period in connection with the payment for all merchandise of the type involved, appraisement shall be withheld and liquidation shall be suspended as to all merchandise of the type involved exported to the United States during the period involved.

(5) If the appraiser or collector has credible information that a type of rate or combination of types of rates not applicable to payment for the merchandise was required or permitted in payment of costs, charges, or expenses, the currency conversions for the exchange covering payment for the merchandise and for the exchange covering such costs, charges, or expenses shall be calculated separately. If the costs, charges, or expenses are dutiable, they shall be calculated according to the rules stated above in this section, and in the event that any type of rate uniformly appli-

---

visions of section 25 of such Act of August 27, 1894, as amended, for the quarter in which the merchandise was exported.

"(c) *Market rate when no proclamation.* (1) If no value has been proclaimed under subsection (a) for the quarter in which the merchandise was exported, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate at noon on the day of exportation, then conversion of the foreign currency involved shall be made—

"(A) At a value measured by such buying rate, or

"(B) If the Secretary of the Treasury shall by regulation so prescribe with respect to the particular foreign currency, at a value measured by the buying rate first certified under this subsection for a day in the quarter in which the day of exportation falls (but only if the buying rate at noon on the day of exportation does not vary by 5 per centum or more from such first-certified buying rate).

"(2) For the purposes of this subsection, the term "buying rate" means the buying rate in the New York market for cable transfers payable in the foreign currency so to be converted. Such rate shall be determined by the Federal Reserve Bank of New York and certified to the Secretary of the Treasury, who shall make it public at such times and to such extent as he deems necessary. In ascertaining such buying rate, the Federal Reserve Bank of New York may, in its discretion—

"(A) Take into consideration the last ascertainable transactions and quotations, whether direct or through exchange of other currencies, and

"(B) If there is no market buying rate for such cable transfers, calculate such rate (i) from actual transactions and quotations in demand or time bills of exchange, or (ii) from the last ascertainable transactions and quotations outside the United States in or for exchange payable in United States currency or other currency.

"(3) For the purposes of this subsection, if the day of exportation is one on which banks are generally closed in New York City, then the buying rate at noon on the last preceding business day shall be considered the buying rate at noon on the day of exportation." (31 U.S.C. 372(b))

---

cable to payment of dutiable costs, proof gallons (or wine gallons if below pounds per bale; Sumatra; actual tare for

cable to payment of dutiable costs, charges, or expenses for merchandise of the type involved was a type of rate not certified by the Federal Reserve Bank, appraisement shall be withheld and liquidation suspended. In deducting nondutiable costs, charges, or expenses, the foreign exchange shall be at the rate or rates actually used in payment of such costs, charges, or expenses, whether or not certified by the Federal Reserve Bank.

(f) Whenever appraisement is withheld or liquidation suspended, under paragraph (e) (4) or (5) of this section, a detailed report shall be transmited immediately to the Board.

(Secs. 505, 522, 46 Stat. 732, 739, as amended; 19 U.S.C. 1505, 31 U.S.C. 372)

§ 16.5 Weight, gauge, or measure.

(a) If any merchandise covered by a warehouse entry has been cleaned, sorted, repacked, or otherwise changed in condition under section 562, Tariff Act of 1930, as amended, before liquidation of the warehouse entry, such entry shall be liquidated and withdrawals passed on the basis of the weight, gauge, or measure of such merchandise in its manipulated condition with an appropriate notation in the duty statement that the duties are assessed on the basis of the manipulated condition of the merchandise. If the covering entry is liquidated prior to any manipulation of the merchandise, each subsequent warehouse withdrawal of manipulated merchandise shall be liquidated on the basis of the condition, quantity, and weight of the merchandise at the time of withdrawal. (See § 16.2 (e))

(b) When the amount of duty is governed in any way by the net weight of the merchandise, liquidation may be made on the net weight shown on the invoice if it is impracticable to obtain actual net weight without injury to the goods.

(c) If weighable merchandise is subject to an ad valorem rate of duty, liquidation shall be made on the basis upon which appraisement was made, as indicated by the appraiser's report.

(d) Duties and internal-revenue taxes on imported alcoholic beverages provided for in Schedule 1, Part 12, Tariff Schedules of the United States, and subject to internal-revenue taxes shall be collected only on the number of proof gallons (or wine gallons if below proof), and fractional parts thereof, entered or withdrawn for consumption.

(Secs. 315, 500 (a), 505, 46 Stat. 695, as amended, 729, 732; 19 U. S. C. 1315, 1500 (a), 1505)

§ 16.6 Tare.

(a) The net weight of merchandise dutiable by net weight, or upon a value dependent on net weight,[8] shall be determined insofar as possible by deducting the actual or schedule tare from the gross weight. Actual tare may be determined on the basis of tests when the tares of the packages in a shipment are reasonably uniform.

(b) When the actual tare cannot reasonably be determined and no schedule tare is applicable, the invoice tare may be used in ascertaining the net weight of the merchandise.

(c) The following tares which, from experience, have proved to be the average weight of coverings of certain classes of merchandise shall be known as schedule tares and shall be applied, except as provided in paragraph (d) of this section:

Apple boxes. Eight pounds per box. This schedule tare includes the paper wrappers, if any, on the apples.

Cheese with inedible, but not readily removable, coverings. Asiago, Cremonese, Parmesan, Parmiggiano, Reggiano, Reggianito, and Traboliano, 1 percent: Cotrone, Moliterno, Moliterno type, and Palmese, 2 percent; all others, 2½ percent.

China clay in so-called half-ton casks. Seventy-two pounds per cask.

Figs in skeleton cases. Actual tare for outer containers plus 13 percent of the gross weight of the inside wooden boxes and figs.

Fresh tomatoes. Four ounces per 100 paper wrappings.

Lemons and oranges. Ten ounces per box and 5 ounces per half box for paper wrappings, and actual tare for outer containers.

Ocher, dry, in casks. Eight percent of the gross weight; *in oil in casks:* 12 percent of the gross weight.

Sugar. (See § 13.6 of this chapter.)

Tobacco, leaf not stemmed. Thirteen pounds per bale; *Sumatra:* actual tare for outside coverings, plus 4¼ pounds for the inside matting and, if a certificate be attached to the consular invoice certifying that the bales contain paper wrappings and specifying whether light or heavy paper has been used, either 4 or 8 ounces for the paper wrapping according to the thickness of paper used.

(d) If the importer is not satisfied with the invoice tare or with the schedule tare, or if the collector is of the opinion that the invoice or schedule tare does not correctly represent the tare of the merchandise, or if the weigher has reason to believe that the invoice or schedule tare is greater than the real tare, the actual tare shall be ascertained and in so doing the weigher shall empty and weigh as many casks, boxes, and other coverings as he may deem necessary.

(e) When it is impracticable to ascertain the actual tare, the weigher shall state in his report what, in his judgment, constitutes a fair tare allowance.

(Sec. 507, 46 Stat. 732; 19 U.S.C. 1507)

§ 16.7 Articles in examination packages not specified in the invoice.

When any article not corresponding with the description given in the invoice is found by the appraiser and is reported to the collector in accordance with section 499, Tariff Act of 1930, as amended, duties shall be assessed on the goods actually found, and, if the discrepancy appears conclusively to be the result of a mistake and not of any intent to defraud, no proceedings for forfeiture shall be taken. When the entire shipment does not agree with the invoice and there is no evidence of any intent to defraud, a new entry shall be required and the estimated duty paid on the original entry shall be refunded on liquidation as in the case of a nonimportation.

(Secs. 499, 505, 555, 46 Stat. 728, as amended, 732, 743; 19 U.S.C. 1499, 1505, 1555)

§ 16.9 Commingling of goods.

(a) Commingled merchandise shall be assessed with duty at the highest rate or rates applicable to any one kind of merchandise included in the commingling, unless the quantity and value of each of the kinds so included can be readily ascertained by the usual method of customs examination or by one or more of the methods specified in General Headnote 7(a), Tariff Schedules of the United States,[9] or unless the conditions specified in General Headnote 7 (b), (c), or (d), Tariff Schedules of the United States, are satisfied. Evidence specified in General Headnote 7(a)(iii), Tariff Schedules of

---

[8] "The Secretary of the Treasury is hereby authorized to prescribe and issue regulations for the ascertainment of tare upon imported merchandise, including the establishment of reasonable and just schedule tares therefor, but in no case shall there be any allowance for draft or for impurities, other than excessive moisture and impurities not usually found in or upon such or similar merchandise." (Tariff Act of 1930, sec. 507; 19 U. S. C. 1507)

[9] "(a) Whenever articles subject to different rates of duty are so packed together or mingled that the quantity or value of each class of articles cannot be readily ascertained by customs officers (without physical segregation of the shipment or the contents of any entire package thereof), by one or more of the following means:

"(i) sampling,

"(ii) verification of packing lists or other documents filed at the time of entry, or

"(iii) evidence showing performance of commercial settlement tests generally accepted in the trade and filed in such time and manner as may be prescribed by regulations of the Secretary of the Treasury,

the commingled articles shall be subject to the highest rate of duty applicable to any part thereof unless the consignee or his agent segregates the articles pursuant to subdivision (b) hereof.

"(b) Every segregation of articles made pursuant to this headnote shall be accomplished by the consignee or his agent at the risk and expense of the consignee within 30 days (unless the Secretary authorizes in writing a longer time) after the date of personal delivery or mailing, by such employee as the Secretary of the Treasury shall designate, of written notice to the consignee that the articles are commingled and that the quantity or value of each class of articles cannot be readily ascertained by customs officers. Every such segregation shall be accomplished under customs supervision, and the compensation and expenses of the supervising customs officers shall be reimbursed to the Government by the consignee under such regulations as the Secretary of the Treasury may prescribe.

"(c) The foregoing provisions of this headnote do not apply with respect to any part of a shipment if the consignee or his agent furnishes, in such time and manner as may be prescribed by regulations of the Secretary of the Treasury, satisfactory proof—

"(i) that such part (A) is commercially negligible, (B) is not capable of segregation without excessive cost, and (C) will not be segregated prior to its use in a manufacturing process or otherwise, and

"(ii) that the commingling was not intended to avoid the payment of lawful duties.

Any article with respect to which such proof is furnished shall be considered for all customs purposes as a part of the article, subject to the next lower rate of duty, with which it is commingled.

"(d) The foregoing provisions of this headnote do not apply with respect to any

the United States shall be considered only if it is filed in the collector's office within 30 days after the date of delivery or mailing of the notice provided for in paragraph (b) of this section, except that the collector may extend such 30-day period for additional periods of 30 days each, but not beyond 6 months from the date of delivery or mailing of the notice, provided the importer or his agent makes written application for each extension and gives satisfactory reasons for its allowance.

(b) The collector shall give written notice to the consignee as promptly as possible after any commingling is discovered.

(c) If a consignee or his agent desires to avail himself of the privileges of such General Headnote 7 (c) or (d), he shall file with the collector within 30 days after the date of delivery or mailing of the notice provided for in paragraph (b) of this section documentary proof which will satisfy the collector that the merchandise is entitled to the lower rate of duty.

(Sec. 101, 76 Stat. 72; Gen. Hdnote. 7, Tariff Schedules of the United States)

§ 16.10 Change in classification or value; higher or lower rate; effective date.

(a) If there is an established and uniform practice at the various ports, a change in classification resulting in a higher rate of duty, except as the result of a court decision, shall be made only upon the Bureau's instructions and shall be applicable only to merchandise entered for consumption after the expiration of 90 days after the date of the publication of the Bureau's instructions in the Treasury Decisions. In the case of merchandise entered for warehouse, such change shall apply to goods withdrawn for consumption after the expiration of such 90-day period, provided the warehouse entry is unliquidated or can be reliquidated within 60 days after the date of liquidation.[10]

(b) If there is not an established and uniform practice at the various ports, a change in classification resulting in a higher rate of duty shall be applicable immediately to all merchandise covered by unliquidated entries, whether for consumption or warehouse, and also to merchandise covered by liquidated warehouse entries if the merchandise has remained in warehouse after the date the change in classification is established, provided reliquidation can be completed within 60 days after the date of liquidation.

(c) A change in classification resulting in a lower rate of duty, except as the result of a court decision, shall be made only upon the Bureau's instructions or upon the receipt of a Customs Information Exchange report showing the higher classification to be clearly erroneous and contrary to the current practice at the various ports. A change to a lower rate of duty, when decided upon, shall be applicable to all unliquidated entries and to all protested entries involving the same issue which have not been forwarded to the United States Customs Court.

(d) The principles of decisions of the United States Customs Court or the United States Court of Customs and Patent Appeals favorable to the Government shall be applied to merchandise identical with that passed on by the court, if such merchandise is covered by unliquidated entries, whether for consumption or warehouse, or by liquidated warehouse entries which can be reliquidated within 60 days from the date of liquidation, provided that in the latter case the merchandise remains in warehouse after the date of the publication of the decision in the weekly Treasury Decisions.

(e) The principle of any such favorable decision shall be applied to merchandise, though not identical with the merchandise the subject of the court's decision, if its classification is affected by such principle, provided that it has been entered for consumption or withdrawn from warehouse for consumption after 30 days from the date of publication of the court's decision in the weekly Treasury Decisions, and that, in the case of liquidated warehouse entries, the reliquidation can be completed within 60 days from the date of liquidation.

(f) If the overruling of a protest is accompanied by a definite statement that a higher rate than that assessed by the collector was properly chargeable, such higher rate, when applicable, shall be made effective as to merchandise entered for consumption or withdrawn from warehouse for consumption after 30 days from the date of the publication of the court's decision in the weekly Treasury Decisions, provided that, in the case of liquidated warehouse entries, reliquidation thereof can be completed within 60 days from the date of liquidation.

(g) Unless the Bureau otherwise directs, the principle of any decision of the United States Customs Court or the United States Court of Customs and Patent Appeals adverse to the Government shall be applied to unliquidated entries and protested entries which have not been forwarded to the Customs Court and in which the same issue is involved as soon as the time within which an application for a rehearing or review may be filed has expired without such application having been made.

(h) When a rate of duty or a rate of internal-revenue tax imposed upon or by reason of importation is changed by an act of Congress or by a proclamation of the President,[10a] the new rate shall be applied in accordance with the provisions of section 315 (a), Tariff Act of 1930, as

---

shipment if the consignee or his agent shall furnish, in such time and manner as may be prescribed by regulations of the Secretary of the Treasury, satisfactory proof—

"(i) that the value of the commingled articles is less than the aggregate value would be if the shipment were segregated;

"(ii) that the shipment is not capable of segregation without excessive cost and will not be segregated prior to its use in a manufacturing process or otherwise; and

"(iii) that the commingling was not intended to avoid the payment of lawful duties.

Any merchandise with respect to which such proof is furnished shall be considered for all customs purposes to be dutiable at the rate applicable to the material present in greater quantity than any other material.

"(e) The provisions of this headnote shall apply only in cases where the schedules do not expressly provide a particular tariff treatment for commingled articles." (General Headnote 7, Tariff Schedules of the United States.)

[10] "(d) No administrative ruling resulting in the imposition of a higher rate of duty or charge than the Secretary of the Treasury shall find to have been applicable to imported merchandise under an established and uniform practice shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption prior to the expiration of thirty days after the date of publication in the weekly Treasury Decisions of notice of such ruling; but this provision shall not apply with respect to the imposition of antidumping duties." (Tariff Act of 1930, sec. 315 (d), as amended; 19 U.S.C. 1315(d))

[10a] "(a) For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in the present emergency in restoring the American standard of living, in overcoming domestic unemployment and the present economic depression, in increasing the purchasing power of the American public, and in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, the President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States and that the purpose above declared will be promoted by the means hereinafter specified, is authorized from time to time—

"(1) To enter into foreign trade agreements with foreign governments or instrumentalities thereof; and

"(2) To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and such minimum periods, of existing customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder. No proclamation shall be made increasing or decreasing by more than 50 per centum any existing rate of duty or transferring any article between the dutiable and free lists. The proclaimed duties and other import restrictions shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported directly, or indirectly: *Provided*, That the President may suspend the application to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts or policies which in his opinion tend to defeat the purposes set forth in this section; and the proclaimed duties and other import restrictions shall be in effect from and after such time as is specified in the proclamation. The President may at any time terminate any such proclamation in whole or in part.

* * * * *

"(c) As used in this section, the term 'duties and other import restrictions' in-

---

amended," subject in appropriate cases to the provisions of subsection (b) of

shall be made in the district in which the

amended,[11] subject in appropriate cases to the provisions of subsection (b) of such section 315. Any reliquidation of duty or tax on merchandise covered by a rewarehouse entry which may be required by reason of a change in rate within the purview of this paragraph shall be made in the district in which the merchandise is held in customs custody on the effective date of the change.

(Secs. 315, 505, 46 Stat. 695, as amended, 732; 19 U.S.C. 1315, 1505)

§ 16.10a Tariff classification of prospective imports.

(a) Any prospective importer or foreign exporter may apply in writing to the Commissioner of Customs, Washington 25, D.C., for a ruling as to the tariff classification of any article which he intends to import into or ship to the United States in commercial quantities. The application shall contain a full description of each article. The application shall also give the following information, unless it is clear that it will be of no value in determining the tariff classification of the article: (1) The respective quantities and values of the component materials of which the article is composed; (2) information as to its chief use and commercial designation in the United States; and (3) any specifications, analyses, or other information deemed necessary to a tariff classification of the article. Whenever practicable, a sample of the article should be submitted with the application.

(b) If the Commissioner is satisfied (1) that the application is made in good faith by an importer or foreign exporter who is properly and directly concerned with the tariff classification of the article described; (2) that the information submitted or otherwise available is adequate for a considered decision; and (3) that the ruling applied for is not already covered by a controlling published decision, the Commissioner will rule on the tariff classification of the article. A copy of the decision will be mailed to the applicant. The decision will be published in the weekly Treasury Decisions if it will affect a substantial volume of imports or if it is for any other reason of sufficient importance to justify such publication.

(c) Any decision published pursuant to paragraph (b) of this section shall be deemed to establish a uniform practice within the meaning of section 315(d), Tariff Act of 1930, as amended. The decision will not be changed by a further ruling of the Commissioner to impose higher duties on such an article unless the prior decision should prove to be clearly wrong. When it appears to the Commissioner that a correct interpretation of the law may require such a ruling, notice that the prior ruling is under review will be published in the FEDERAL REGISTER so that the parties in interest will have an opportunity to make such written submissions as they desire, within a period which will be specified in the notice, with respect to the correctness of the contemplated action. If after the consideration of such submissions as may be received the Commissioner issues a ruling imposing higher duties, it will be effective only as to merchandise entered for consumption or withdrawn from warehouse for consumption on or after the expiration of 90 days after the date of publication of such ruling in the weekly Treasury Decisions.[11a]

(d) The notice procedure outlined in paragraph (c) of this section will be applied also in any other case in which the Commissioner believes that a correct interpretation of the law may require the issuance of an administrative ruling imposing higher duties on an imported article than has been assessed under an established and uniform practice.

(Secs. 315, 502, 46 Stat. 695, as amended, 731; 19 U.S.C. 1315, 1502)

§ 16.11 Warehouse entries.

Warehouse entries shall be liquidated by single packages when necessary for the purpose of withdrawal.

(Sec. 505, 46 Stat. 732; 19 U. S. C. 1505)

§ 16.12 Appraisement, baggage, informal, and mail entries.

(a) After the liquidation of appraisement entries, a carbon copy of the schedule on customs Form 5171 or 5187 covering such entries shall be posted or lodged as the notice of liquidation, in the place and manner specified in § 16.2(d) for customs Form 4333, after a line has been drawn through the data relating to any entry listed thereon which has not been liquidated as entered. When any such entry is liquidated otherwise than as entered, or is liquidated after the copy of Form 5171 or 5187 on which it was scheduled has already been posted or lodged as a notice of liquidation, notice of the liquidation shall be posted or lodged on customs Form 4333. All such entries ready for liquidation during any one month may be liquidated on any convenient day during that month. The notice of liquidation shall be dated with the date of posting or lodging and the entries covered thereby shall be stamped "Liquidated," with the date of liquidation, which shall be the same as the notice of liquidation. Such stamping shall be deemed the legal evidence of liquidation.

(b) Except as otherwise provided in this paragraph, the effective date of liquidation of informal, mail, and baggage entries[11b] shall be:

(1) The date of payment by the importer of duties and any internal-revenue taxes thereon;

(2) The date of release by customs or the postmaster when the articles are released under such an entry free of duty and tax;

(3) The date a free entry is accepted for articles released under an immediate delivery permit under § 8.59 of this chapter.

When the proper rate or amount of duty cannot be determined at the time of entry because the articles are subject to a tariff rate quota, because of a missing document which, if for free entry, is not produced prior to the release of the articles to the importer, or because of any other reason, the printed notice of liquidation appearing on the receipt issued for any money collected on such entry shall be voided. When the tariff status of the articles either as dutiable or free is finally ascertained it shall be noted on the entry. The effective date of liquidation shall be the date of posting or lodging of the notice of liquidation as required in paragraph (c) of this section.

(c) Notice of liquidation is furnished under paragraph (b) (1) of this section

---

cludes (1) rate and form of import duties and classification of articles, and (2) limitations, prohibitions, charges, and exactions other than duties, imposed on importation or imposed for the regulation of imports." (Tariff Act of 1930, sec. 350; 19 U. S. C. 1351)

"(c) *Proclamation by the President.* The President shall by proclamation approve the rates of duty and changes in classification and in basis of values specified in any report of the commission under this section, if in his judgment such rates of duty and changes are shown by such investigation of the commission to be necessary to equalize such differences in costs of production.

"(d) *Effective date of rates and changes.* Commencing thirty days after the date of any presidential proclamation of approval the increased or decreased rates of duty and changes in classification or in basis of value specified in the report of the commission shall take effect." (Tariff Act of 1930, sec. 336 (c) and (d); 19 U. S. C. 1336)

[11] "(a) Except as otherwise specially provided for, the rate or rates of duty imposed by or pursuant to this act or any other law on any article entered for consumption or withdrawn from warehouse for consumption shall be the rate or rates in effect when the documents comprising the entry for consumption or withdrawal from warehouse for consumption and any estimated or liquidated duties then required to be paid have been deposited with the appropriate customs officer in the form and manner prescribed by regulations of the Secretary of the Treasury, except that—

"(1) Any article released under an informal mail entry shall be subject to duty at the rate or rates in effect when the preparation of the entry is completed; and

"(2) Any article which is not subject to a quantitative or tariff-rate quota and which is covered by an entry for immediate transportation made at the port of original importation under section 552 of this act, if entered for consumption at the port designated by the consignee, or his agent, in such transportation entry without having been taken into the custody of the collector under section 490 of this act, shall be subject to the rate or rates in effect when the transportation entry was accepted at the port of original importation.

"(b) Any article which has been entered for consumption but which, before release from customs custody, is removed from the port or other place of intended release because of inaccessibility, overcarriage, strike, act of God, or unforeseen contingency, shall be subject to duty at the rate or rates in effect when the entry for consumption and any required duties were deposited in accordance with subsection (a) of this section, but only if the article is returned to such port or place within ninety days after the date of removal and the identity of the article as that covered by the entry is established in accordance with regulations prescribed by the Secretary of the Treasury." (Tariff Act of 1930, sec. 315 (a), (b), as amended; 19 U. S. C. 1315 (a), (b))

[11a] The procedure outlined in this paragraph is not applicable to changes required by statutory enactment, judicial decision, or Presidential proclamation.

[11b] Baggage entries include entries on customs Form 3351, on the duplicate copy of customs Form 3419, and on customs Forms 5123, 6059, 6063, and 6064.

by a suitable printed statement appearing on the receipt issued for duties and any internal-revenue taxes collected. No other notice of liquidation shall be given but notice of reliquidation of any such entry shall be given on customs Form 4333 posted or lodged in the place and manner specified in § 16.2(d) of these regulations except when a refund of part or all of the duties and internal-revenue taxes paid is due the importer and a notice of refund is prepared. In such case, the notice of refund shall constitute the notice of reliquidation. The date of the notice of refund in such case shall be the same as the date of reliquidation. Notice of liquidation is furnished under paragraph (b)(2) of this section by release of the article free of duty and tax and under paragraph (b)(3) of this section by the acceptance of the entry. No further notice of the liquidation of such entries shall be given. When the proper rate or amount of duty cannot be determined at the time of entry under paragraph (b) of this section, notice of liquidation shall be given by scheduling the entry on customs Form 4333 or 4335, as applicable, and posting or lodging the form in the place and manner specified in § 16.2 (d) for formal entries. The form shall bear the date of such posting or lodging.

(Secs. 505, 514, 46 Stat. 732, 734; 19 U. S. C. 1505, 1514)

§ 16.13 Errors, mistakes and inadvertencies, correction of.

(a) Collectors of customs have broad responsibility and authority, independent of section 520(c)(1), Tariff Act of 1930, as amended, to take appropriate action to insure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is otherwise in accordance with law. Such action may be taken in connection with (1) the liquidation of an entry, (2) a voluntary reliquidation completed within 60 days after liquidation, (3) a voluntary correction of an exaction within 60 days after the exaction was made, (4) a reliquidation made pursuant to a valid protest covering the particular merchandise as to which a change or adjustment is in order, or (5) the adjustment, pursuant to valid protest, of a transaction or decision which is neither a liquidation nor a reliquidation. The authority extends to errors in the construction of a law and to errors adverse to the Government as well as the importer. In exercising that authority collectors cannot consider errors in appraisement. The extent of the collector's authority with respect to appraisement errors is set forth in paragraphs (b) and (c) of this section.

(b) Pursuant to section 520(c)(1), Tariff Act of 1930, as amended, notwithstanding a valid protest was not filed, the collector may correct by reliquidation or other appropriate action a clerical error, mistake of fact, or other inadvertence in any entry, liquidation, appraisement (subject to paragraph (c) of this section), or other customs transaction if the error, mistake of fact, or other inadvertence:

(1) Does not amount to an error in the construction of a law;

(2) Is adverse to the importer;

(3) Is manifest from the record or established by documentary evidence; and

(4) Is brought to the attention of the Customs Service:

(i) Within 1 year after the date of entry, appraisement, or other transaction (including a liquidation, reliquidation, or exaction) if the error, mistake of fact or other inadvertence is in the entry, appraisement, or other transaction (including a liquidation, reliquidation, or exaction), or

(ii) Except in cases where the error is in liquidation, reliquidation, or exaction in which case subdivision (i) of this subparagraph shall apply, within 60 days after liquidation or exaction when the liquidation or exaction is made more than ten months after the date of entry, appraisement or other transaction.

(c) If the alleged error, mistake of fact or other inadvertence to be considered under paragraph (b) of this section is in an appraisement, the appraiser shall submit a report and recommendation to the collector. If the collector believes that action different from that recommended by the appraiser should be taken and the difference cannot be resolved locally, the matter shall be submitted to the Bureau for decision.

(Secs. 514, 520, 46 Stat. 734, 739, as amended; 19 U.S.C. 1514, 1520)

§ 16.14 Limitation upon reliquidation.

(a) In the absence of a protest, no entry shall be reliquidated after the expiration of the protest period, except as provided for in section 520(c), as amended, or section 521, Tariff Act of 1930,[12] or § 16.10(h).

(b) An error in the liquidation of an entry covering household or personal effects may be corrected by the collector of customs without reference to the Bureau, notwithstanding a timely protest was not filed, if an application for refund is filed with the collector within 1 year after the date of entry and no waiver of compliance with applicable regulations is involved other than a waiver which the collector has authority to grant.

(Secs. 514, 520, 521, 46 Stat. 734, 739, as amended; 19 U.S.C. 1514, 1520, 1521)

§ 16.15 Applicability of laws relating to customs duties.

Provisions of law (including preferences and exemptions) relating only to customs duties shall not be applied to taxes or other charges which are not construed to be customs duties,[13] notwithstanding such taxes or charges may be collected on imported merchandise in customs custody by collectors of customs. (Sec. 20, 52 Stat. 1087; 19 U.S.C. 1528.)

§ 16.18 Additional duties on articles not legally marked.

(a) The marking duty prescribed by section 304(c), Tariff Act of 1930, as amended,[15] shall be assessed upon the value as defined in section 503, Tariff Act of 1930.

(b) The liquidation of entries, other than warehouse entries, shall not be suspended merely because the merchandise covered thereby is reported to be not legally marked, but, upon special application by the importer, the liquidation may be deferred for a reasonable time to permit the marking, destruction, or exportation of the merchandise. Warehouse entries covering merchandise not legally marked shall not be liquidated prior to the withdrawal of the merchandise from warehouse for consumption, exportation, or destruction.

(Sec. 304, 46 Stat. 687, as amended; 19 U. S. C. 1304)

§ 16.19 Discriminating duties.

The discriminating duties provided for in subsection 1 of paragraph J, section

---

[12] "Notwithstanding a valid protest was not filed, the Secretary of the Treasury may authorize a collector to reliquidate an entry to correct—

"(1) A clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of a law, adverse to the importer and manifest from the record or established by documentary evidence, in any entry, liquidation, appraisement, or other customs transaction, when the error, mistake, or inadvertence is brought to the attention of the customs service within one year after the date of entry, appraisment, or transaction, or within sixty days after liquidation or exaction when the liquidation or exaction is made more than ten months after the date of the entry, appraisement, or transaction; or

"(2) Any assessment of duty on household or personal effects in respect of which an application for refund has been filed, with such employee as the Secretary of the Treasury shall designate, within one year after the date of entry." (Tariff Act of 1930, sec. 520 (c), as amended; 19 U. S. C. 1520 (c))

"If the collector finds probable cause to believe there is fraud in the case, he may reliquidate an entry within two years (exclusive of the time during which a protest is pending) after the date of liquidation or last reliquidation." (Tariff Act of 1930, sec. 521; 19 U. S. C. 1521)

[13] "No tax or other charge imposed by or pursuant to any law of the United States shall be construed to be a customs duty for the purpose of any statute relating to the customs revenue, unless the law imposing such tax or charge designates it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws. * * *" (Tariff Act of 1930, sec. 528, as amended; 19 U. S. C. 1528)

[15] "If at the time of importation any article (or its container, as provided in subsection (b) hereof) is not marked in accordance with the requirements of this section, and if such article is not exported or destroyed or the article (or its container, as provided in subsection (b) hereof) marked after importation in accordance with the requirements of this section (such exportation, destruction, or marking to be accomplished under customs supervision prior to the liquidation of the entry covering the article, and to be allowed whether or not the article has remained in continuous customs custody), there shall be levied, collected, and paid upon such article a duty of 10 per centum ad valorem, which shall be deemed to have accrued at the time of importation, shall not be construed to be penal, and shall not be remitted wholly or in part nor shall payment thereof be avoidable for any cause. Such duty shall be levied, collected, and paid in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary customs duties. * * *" (Tariff Act of 1930, sec. 304 (c), as amended; 19 U. S. C. 1304 (c))

IV, Tariff Act of 1913, as amended by the act of March 4, 1915 (19 U.S.C. 128, 131), and the discriminating duties and penalties provided for in section 338, Tariff Act of 1930, shall be imposed only in pursuance of specific instructions from the Commissioner of Customs.

§ 16.20 Duties contingent upon foreign export duties, charges, or restrictions.

Schedule 2, Part 4, Headnote 4, Tariff Schedules of the United States, provides for the imposition under certain conditions of additional duties on articles covered thereby. The assessment of these additional duties is dependent upon action by the President, and notice of such action, if taken, will be published in the weekly Treasury Decisions.

§ 16.21 Dumping duty; notice to importer.

(a) Special dumping duty shall be assessed on all importations of merchandise, whether dutiable or free, as to which the Secretary of the Treasury has made public a finding of dumping, entered or withdrawn from warehouse, for consumption, not more than 120 days before the question of dumping was raised by or presented to the Secretary or his delegate, provided the particular importation has not been appraised prior to the publication of such finding, and the appraiser reports that the purchase price or exporter's sales price is less than the foreign market value or constructed value, as the case may be.[16]

(b) Before dumping duty is assessed the collector shall notify the importer of the appraiser's report, as in the case of an advance in value. If the importer files an appeal for reappraisement, liquidation shall be suspended until the appeal for reappraisement is finally decided.

(c) If the necessary conditions are present, special dumping duty shall be assessed on samples imported for the purpose of taking orders and making sales in this country.

(Secs. 202, 209, 407, 42 Stat. 11, as amended, 15, 18; 19 U.S.C. 161, 168, 173)

§ 16.22 Method of computing dumping duty.

If it appears that the merchandise has been purchased by a person not the exporter within the meaning of section 207, Antidumping Act, 1921, as amended (19 U.S.C. 166), the special dumping duty shall equal the difference between the purchase price and the foreign market value on the date of purchase, or, if there is no foreign market value, between the purchase price and the constructed value, any foreign currency involved being converted into United States money as of the date of purchase or agreement to purchase. If it appears that the merchandise is imported by a person who is the exporter within the meaning of such section 207, the special dumping duty shall equal the difference between the exporter's sales price and the foreign market value on the date of exportation, or, if there is no foreign market value, between the exporter's sales price and the constructed value, any foreign currency involved being converted into United States money as of the date of exportation.

(Secs. 202, 207, 42 Stat. 11, as amended, 14, as amended; 19 U.S.C. 161, 166)

§ 16.23 Cuban preference.

(a) The total and partial exemptions from duty provided for in the trade agreement with the Republic of Cuba of October 30, 1947,[17] shall be deemed to apply only to direct shipments from Cuba and to shipments via other countries for which there is furnished proof that the merchandise was destined to the United States at the time of exportation from Cuba and also a certificate of the proper customs officer of each foreign country in which the merchandise was landed while en route to the United States showing continuous customs custody of the shipment while in such foreign country.

(b) No evidence of origin shall be required for any Cuban merchandise which is unconditionally free of duty. Special customs invoices shall be required for merchandise of Cuban origin embraced within the classes enumerated in § 8.15 (b) or (c) of this chapter, if the right of the merchandise to any total or partial exemption from duty is dependent upon its Cuban origin and the value of the shipment exceeds $500. In the case of every shipment of Cuban articles for which any total or partial exemption from duty is sought under the provisions of the Cuban Trade Agreement, except as stated in the next sentence, there shall be filed in connection with the entry, preferably on the invoice filed with the entry, a declaration of the shipper, or other person having actual knowledge of the facts, that the articles for which the exemption is sought are of the growth, produce, or manufacture of Cuba. Production of the declaration may be waived in connection with direct shipments claimed to be of Cuban origin, valued not over $250, in those cases where the collector is satisfied from the character of the articles or otherwise that they are in fact of Cuban origin.

(c) Duties assessed on imports on special occasions, such as marking duties (sec. 304, Tariff Act of 1930), internal-revenue taxes imposed on imported articles, and other special exactions (as distinguished from the ordinary customs duties such as are imposed under the dutiable provisions of the Tariff Schedules of the United States are not subject to any reduction under the trade agreement.

§ 16.24 Countervailing duties.

(a) Any appraiser or other principal customs officer who obtains any information that any bounty or grant is being paid or bestowed with respect to dutiable merchandise imported into the United States, so as to require action under section 303, Tariff Act of 1930,[18] shall communicate such information promptly to the Commissioner of Customs. Every such communication shall contain or be accompanied by a statement of substantially the same information as is required in paragraph (b) of this section, if in the possession of the appraiser or other officer or readily available to him.

(b) Any person outside the Customs Service who has reason to believe that any bounty or grant is being paid or bestowed with respect to dutiable merchandise imported into the United States may communicate his belief to any appraiser or the Commissioner of Customs. Every such communication shall contain, or be accompanied by, (1) a full statement of the reasons for the belief, (2) a detailed description or sample of the merchandise, (3) all pertinent facts obtainable as to any bounty or grant being paid or bestowed with respect to such merchandise.

(c) If any information filed with an appraiser pursuant to paragraph (b) of this section does not conform with the requirements of that paragraph, the

---

[16] See § 14.13 of this chapter.

For regulations regarding finding of dumping by the Secretary and procedure under the Antidumping Act, 1921, see §§ 14.6–14.13.

The fact that the importer has added on entry the difference between the purchase price or the exporter's sales price and the foreign market value or constructed value and the appraiser has approved the resulting entered value shall not prevent the assessment of the special dumping duty. However, a mere difference between the purchase price or exporter's sales price and the foreign market value or constructed value, without a finding by the Secretary of the Treasury, as above referred to, is not sufficient for the assessment of the special dumping duty.

[17] The operation of the Convention of Commercial Reciprocity between the United States and Cuba signed December 11, 1902 (T. D. 24836), and the operation of the trade agreement with Cuba of August 24, 1934 (T. D. 47232), as amended by the supplementary trade agreements of December 18, 1939 (T. D. 50050), and of December 23, 1941 (T. D. 50541), are suspended for such time as the United States and Cuba are both contracting parties to the General Agreement on Tariffs and Trade concluded at Geneva on October 30, 1947.

[18] "Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, and such article or merchandise is dutiable under the provisions of this act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The Secretary of the Treasury shall from time to time ascertain and determine, or estimate, the net amount of each such bounty or grant, and shall declare the net amount so determined or estimated. The Secretary of the Treasury shall make all regulations he may deem necessary for the identification of such articles and merchandise and for the assessment and collection of such additional duties." (Tariff Act of 1930, sec. 303; 19 U. S. C. 1303.)

communication shall be returned promptly to the person who submitted it with detailed written advice as to the respects in which it does not conform. If such information is found to comply with the requirements, it shall be transmitted by the appraiser within 10 days to the Commissioner of Customs, together with all pertinent additional information available to the appraiser.

(d) Upon receipt by the Commissioner of Customs of any communication submitted pursuant to paragraph (a), (b), or (c), of this section and found to comply with the requirements of the pertinent paragraph, the Commissioner will cause such investigation to be made as appears to be warranted by the circumstances of the case and the Commissioner or his designated representative will consider any representations offered by foreign interests, importers, domestic producers, or other interested persons.

(e) If it is determined that the application of the said section 303 is required, the Commissioner of Customs, with the approval of the Secretary of the Treasury, will issue a countervailing duty order describing the merchandise, designating the country or area in which it is produced or from which it is exported, and declaring the ascertained or estimated amount of the bounty or grant or a rule for calculating or estimating such amount.

(f) Each order issued pursuant to paragraph (e) of this section will be published in a weekly issue of Treasury Decisions and in the FEDERAL REGISTER. Orders or notices issued under section 303, Tariff Act of 1930, or a corresponding provision of a prior act, are currently in effect with respect to the merchandise listed below:

Country	Commodity	Treasury Decision	Action
Australia	Sugar content of certain articles	39541	Declared rate.
		49157	New estimated rates.
		52923	Contingent suspension of rates.
		54582	New rates.
		54719	New rates.
		54779	New rates.
		54881	New rates.
		55056	New rates.
		55175	New rates.
		55307	New rates.
		55430	New rates.
		55557	New rates.
		55664	New rates.
		55716	Certain articles exempted as to shipments exported on or after July 19, 1962.
		55835	New rates.
		55959	New rates.
	Butter	42937	Bounties declared—Rates.
		43067	New rates.
		48551	New estimated rate.
	Fortified wines	51476	Bounties declared—Contingent rates.
		55365	Discontinued as to shipments exported on or after May 31, 1955.
Canada	Cheese, 93–94 score, from whole milk, cheddar, including "washed curd," types.	50093	Bounties declared—Rates.
	Cheese, 93–94 score, blue-vein, of Roquefort type.	53182	Bounties declared—Rates.
Cuba	Cordage	53534	Bounties declared—Rates.
		54650	T.D. 53534 modified.
Denmark	Butter	47896	Bounties declared—Rates.
		48734	Discontinued as to direct shipments.
Great Britain	Spirits	34466	Bounties declared—Rates.
		34752	Descriptions.
		34982	No bounty on rum.
		35089	Proof gallons.
		35510	Alcoholic perfumery.
		35668	Orange bitters.
		47826–7	Quantity for computing duty.
		52555	Bounty on plain spirits terminated.
		55812	Modified as to certain spirits.
	Silk and silk articles	53476	New rates and additional articles.
		55023	New rates and additional articles.
		55567	Discontinued as to shipments exported on or after October 1, 1961.
	Sugar	49355	Bounties declared—Rates.
		50108 50127	New rates.
Ireland	Spirits	47753	Bounties declared—Rates.
		47826–7	Quantity for computing duty.
Spain	Almonds	54792	Bounties declared—Rates.
		55184	Discontinued as to shipments exported on or after July 21, 1959.
Uruguay	Wool tops	53257	Bounties declared—Rates.
		53446	New rate.
		54798	Discontinued as to registered shipments—New rate.
		55044	Discontinued as to shipments exported on or after December 17, 1959.

(Sec. 303, 46 Stat. 687; 19 U.S.C. 1303)

§ 16.25 Special duties on articles imported under agreements in restraint of trade.

Whenever it appears that imported articles may be subject to the special duties provided for in section 802, act of Sept. 8, 1916, 15 U.S.C. 73,[19] the collector shall report the matter to the Commissioner of Customs and await instructions with respect to the imposition of such duties.

(Secs. 802, 803, 39 Stat. 799; 15 U. S. C. 73, 74)

§ 16.26 Philippine trade.

(a) The total or partial exemptions of "Philippine articles" [20] entered, or withdrawn from warehouse, for consumption during the period beginning January 1, 1956, which are authorized by the Philippine Trade Agreement Revision Act of 1955 and Presidential Proclamation of October 26, 1955, made pursuant thereto (T.D. 53965), apply to "Philippine articles" imported from any foreign country.

(b) No evidence of origin shall be required for any Philippine merchandise which is unconditionally free of duty.

(c) When any total or partial exemption from duty is claimed on the ground that an importation consists of "Philippine articles," the claim shall be allowed only if it is established to the satisfaction of the collector of customs concerned. The collector may accept as satisfactory evidence that an article is "Philippine article" a certificate in the appropriate form specified in paragraph (d) of this section, subject to any verification he may deem necessary, or he may satisfy himself of such fact by other reasonable ways and means if, taking into consideration the kind and value of the goods and the circumstances of importation, he deems a certificate unnecessary.

(d) (1) When no material which is not the growth, product, or manufacture of the Philippines or of the United States was used at any stage in the production of the imported article, a certificate in the following form may be accepted as

[19] "If any article produced in a foreign country is imported into the United States under any agreement, understanding, or condition that the importer thereof or any other person in the United States shall not use, purchase, or deal in, or shall be restricted in his using, purchasing, or dealing in, the articles of any other person, there shall be levied, collected, and paid thereon, in addition to the duty otherwise imposed by law, a special duty equal to double the amount of such duty: *Provided*, That the above shall not be interpreted to prevent the establishing in this country on the part of a foreign producer of an exclusive agency for the sale in the United States of the products of said foreign producer or merchant, nor to prevent such exclusive agent from agreeing not to use, purchase, or deal in the article of any other person, but this proviso shall not be construed to exempt from the provisions of this section any article imported by such exclusive agent if such agent is required by the foreign producer or if it is agreed between such agent and such foreign producer that any agreement, understanding, or condition set out in this section shall be imposed by such agent upon the sale or other disposition of such article to any person in the United States." (15 U. S. C. 73)

[20] The term "Philippine articles" means articles which are products of the Philippines, but does not include any article produced with the use of materials imported into the Philippines which are products of any country other than the Philippines or the United States if the aggregate value of such imported materials when landed at the Philippine port of entry, exclusive of any landing cost and Philippine duty, was more than 20 per centum of the appraised customs value of the article imported into the United States (22 U.S.C. 1360(a)(4)).

evidence that the commodity is a "Philippine article":

The product covered by the _____

(Describe above the invoice, bill of lading, or other document or statement identifying the shipment)

annexed or appended to this certificate of Philippine origin at the time it was subscribed is the growth, product, or manufacture of the Philippines. No foreign materials (other than those which are of the growth, product, or manufacture of the United States) were used at any stage in the production of this product, i. e., either in its immediate production or in the production of any intermediate product used at any stage in the chain of production in the Philippines which resulted in this product.

(2) When any material which is not the growth, product, or manufacture of the Philippines or of the United States was used at any stage in the manufacture of the imported article, a certificate in the following form may be accepted as evidence that the commodity is nevertheless a "Philippine article":

The product covered by the _____

(Describe above the invoice, bill of lading, or other document or statement identifying the shipment)

annexed or appended to this certificate of Philippine origin at the time it was subscribed is the product of the Philippines. There were used in its production in the Philippines _____

(Number of units and description)

of foreign materials (other than those which are of the growth, product, or manufacture of the United States), valued by the Philippine customs officers for the purpose of the Philippine customs laws at _____

(Official Philippine customs value at the time of importation into the Philippines, in terms of pounds, yards, or other applicable unit)

plus, if not included in such unit value, _____; the cost per unit of bringing such foreign materials to the Philippines.

(3) If the collector shall be satisfied that the revenue will be protected adequately thereby, he may accept in lieu of the certificate specified in subparagraph (2) of this paragraph a certificate in the following form:

The product covered by the_____

(Describe above the invoice, bill of lading, or other document or statement identifying the shipment)

annexed or appended to this certificate of Philippine origin at the time it was subscribed is the product of the Philippines. There were or may have been used in its production in the Philippines foreign materials (other than those which are of the growth, product, or manufacture of the United States).

It is impracticable to ascertain the exact number of units of foreign material, if any, used in its production or the customs valuation of such material, but to the best of (my) (our) (its) knowledge and belief such foreign materials as were or may have been used would not exceed 20 per centum of the selling price or invoice value of the product covered by this certificate.

(4) If more than one kind of article is covered by a certificate provided for in subparagraphs (1), (2), or (3) of this paragraph, the required information shall be shown with respect to each kind. When more than one kind of material of other than Philippine or United States origin is used in the production of an article covered by such a certificate, the certificate shall state the number of units, description, and Philippine customs valuation per unit of each such kind of material.

(5) A certificate conforming to subparagraphs (1), (2), or (3) of this paragraph shall be accepted as evidence of the facts alleged therein only if (i) there is annexed thereto a copy of the commercial invoice or bill of lading covering the articles or other documentary matter which identifies the articles to which the certificate pertains, (ii) the certificate is signed by the manufacturer or producer of the articles to which it pertains, or by the person who exported the articles from the Philippines, and (iii) it clearly appears that such copy or other documentary matter was annexed to the certificate when it was signed.

(Secs. 2, 201–205, 214, 60 Stat. 141, 143, 144, 146; 22 U.S.C. 1251–1255, 1264, 1360)

PART 17—PROTESTS AND REAPPRAISEMENTS

PROTESTS

Sec.
17.1 Protest; form of.
17.2 Power of attorney to file protest.
17.3 Collector's review on protest; transmission of protests and samples to the United States Customs Court.
17.4 Decisions of United States Customs Court; appeals; reliquidation; refunds.
17.5 Stipulations.

REAPPRAISEMENT AND REVIEW

17.6 Notice of advance.
17.7 Appeal for reappraisement; form; samples; certification of documents.
17.8 Review of reappraisement decision; filing application for.

ANTIDUMPING PROTESTS AND APPEALS; AMERICAN PRODUCERS' APPEALS AND PROTESTS

17.9 Antidumping; protests and appeals; procedure.
17.11 American producers' appeals and protests; procedure.

AUTHORITY: §§ 17.1 to 17.11 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

PROTESTS

§ 17.1 Protest; form of.

(a) Protests (except protests by American manufacturers, producers, and wholesalers) filed against decisions of the collector shall be in the form and filed within the time prescribed by section 514, Tariff Act of 1930.[1]

[1] "Except as provided in subdivision (b) of section 516 of this Act (relating to the protests by American manufacturers, producers, and wholesalers), all decisions of the collector, including the legality of all orders and findings entering into the same, as to the rate and amount of duties chargeable, and as to all exactions of whatever character (within the jurisdiction of the Secretary of the Treasury), and his decisions excluding any merchandise from entry or delivery, under any provision of the customs laws, and his liquidation or reliquidation of any entry, or refusal to pay any claim for drawback or his refusal to reliquidate any entry for a clerical error discovered within one year after the date of entry, or within sixty days after liquidation or reliquidation when such liquidation or reliquidation is made more than ten months after the date of entry, shall, upon the expiration of sixty days after the date of such liquidation, reliquidation, decision, or refusal, be final and conclusive upon all persons (including the United States and any officer thereof), unless the importer, consignee, or agent of the person paying such charge or exaction, or filing such claim for drawback, or seeking such entry or delivery, shall, within sixty days after, but not before such liquidation, reliquidation, decision, or refusal, as the case may be, as well in cases of merchandise entered in bond as for consumption, file a protest in writing with the collector setting forth distinctly and specifically, and in respect to each entry, payment, claim, decision, or refusal, the reasons for the objection thereto. The reliquidation of an entry shall not open such entry so that a protest may be filed against the decision of the collector upon any question not involved in such liquidation." (Tariff Act of 1930, sec. 514, 19 U. S. C. 1514)

(b) Each protest shall be in triplicate, addressed to the collector, and signed by the person protesting or his agent or attorney. Each protest shall show the address of the protestant and the address of his agent or attorney, if signed by one of these, the number and date of the entry, the name of the importing carrier, the date of importation, and the date of the liquidation of the entry, and it shall set forth distinctly and specifically with respect to each entry, payment, claim, decision, or refusal the reasons for the objection, stating the rate or rates of duty claimed to be applicable and the paragraph or section of the law, if any, under which relief is claimed.

(c) The date of liquidation for the purpose of computing the time for filing a protest under section 514, Tariff Act of 1930, shall be the date of posting or lodging a notice of the liquidation in accordance with § 16.2 (d) or § 16.12 (a) of this chapter, except that, in the case of baggage, informal, and mail entries, the date of liquidation shall be the date the liquidation becomes effective as determined in accordance with § 16.12(b) of this chapter.

(d) The date of the decision of the collector excluding any merchandise from entry or delivery under any provision of the customs revenue laws shall be the date of his written notice to the importer that entry or delivery will not be allowed. The action of the collector or other customs officer in seizing or directing the seizure of merchandise shall not constitute a notice of exclusion for the purpose of this paragraph.

(Sec. 514, 46 Stat. 734; 19 U.S.C. 1514)

§ 17.2 Power of attorney to file protest.

(a) Except as hereinafter provided in this paragraph, no protest signed by an agent or attorney shall be granted or denied by the collector unless there has been filed or is filed with the protest in the collector's office a power of attorney on customs Form 5295 or 5295–A or other form as explicit in its terms as is the prescribed customs form, authorizing such agent or attorney to make, sign, and file the protest. Such powers of attorney issued by a partnership shall be limited to a period not to exceed two years from the date of receipt thereof by the collector. All other powers of attorney may be granted for an unlimited period. Any power of attorney shall be subject to revocation at any time by written notice given to and received by the collector. When a protest is filed by an agent or attorney not named in a power of attorney as required by this section, it shall be numbered and stamped with the date of receipt in order to establish whether it was filed within the period prescribed by section 514, Tariff Act of 1930. All information customarily furnished to the United States Customs Court and the Assistant Attorney General in the case of a valid protest should be supplied in the usual manner in connection with the merits of the purported protest together with a request to the Assistant Attorney General to move the United States Customs Court to dismiss the purported protest because of the lack of timely authority of the agent or attorney to file the protest in behalf of the principal. The purported protest shall not be granted or denied by the collector but shall be transmitted, together with the entry and accompanying papers and all exhibits connected therewith, to the United States Customs Court, with a communication explaining to the court that the agent or attorney who filed the purported protest was not named in a power of attorney, and that the collector has not reviewed and modified or affirmed the protested decision as required by section 515, Tariff Act of 1930, for the reason that it has not been established that the protest was filed by a person authorized by section 514, Tariff Act of 1930.

(b) A partnership power of attorney to file protests may be executed by one member in the name of the partnership, provided the power recites the names of all the members. A corporate power of attorney to file protests shall be signed by a duly authorized officer or employee of the corporation and, if the collector is otherwise satisfied as to the authority of such corporate officer or employee to grant such power of attorney, compliance with the requirements of § 8.19(e) of this chapter may be waived with respect to such power.

(Secs. 514, 515, 46 Stat. 734; 19 U.S.C. 1514, 1515)

§ 17.3 Collector's review on protest; transmission of protests and samples to the United States Customs Court.

(a) The collector, after reviewing so much of his liquidation as is covered by the protest, may reliquidate the entry involved, assessing the duties believed by him at that time to be correct.[2]

(b) Samples shall not be required when the question involved is one of law which does not necessitate an inspection of the merchandise by the court, or when the merchandise is heavy, bulky, or otherwise of such character as to make the retention of samples impracticable. When no samples have been retained by the appraiser, they shall be furnished to the collector by the protestant in appropriate cases and transmitted to the appraiser for verification. If samples are sent to the court at the importer's request, the transportation charges shall be paid by him. If samples are needed to sustain the Government's case, they shall be sent by mail, if possible, under Government frank; otherwise under Government bill of lading.

(Sec. 515, 46 Stat. 734; 19 U. S. C. 1515)

§ 17.4 Decisions of United States Customs Court; appeals; reliquidation; refunds.

(a) An entry which is the subject of a decision of the United States Customs Court shall be reliquidated in harmony with the judgment order thereon at the expiration of 60 days from the date of the decision, or 90 days in the case of entries covering merchandise imported into Alaska or the insular possessions of the United States, unless an appeal or motion for a rehearing is filed,[3] except that entries the subject of decisions of the court, which follow a decision of the Court of Customs and Patent Appeals involving the same issue, may ordinarily be reliquidated immediately upon receipt of the judgment orders from the United States Customs Court.

(b) An entry covering merchandise the subject of a decision of the Court of Customs and Patent Appeals shall be reliquidated only upon receipt of the judgment order from the United States Customs Court, but no such entry shall be liquidated pursuant to such order if an appeal is taken to the Supreme Court.[4]

(c) Refund of duties on reliquidation by reason of any ruling or decision of the Bureau, the United States Customs Court, or the United States Court of Customs and Patent Appeals shall be made in accordance with § 24.36 of this chapter.

(Sec. 515, 46 Stat. 734; 19 U. S. C. 1515)

§ 17.5 Stipulations.

(a) Each stipulation, whether following a decision of the Customs Court or the Court of Customs and Patent Appeals or embracing an agreed statement of facts, which is to be certified by a customs employee, shall be presented in triplicate to the office of the Assistant Attorney General, Civil Division, Customs section, 201 Varick Street, New York 14, N.Y., from which it will be forwarded for certification to the appraiser or collector for the district in which the related protest or appeal for reappraisement was filed. The said Customs Section will forward with the stipulation the pertinent entry papers and other documents.

(b) Each item or class of merchandise mentioned in the body of the stipulation shall be identified by a separate capital letter and by the initials of the certifying officer, but in no case shall the letter or symbol "X" be used for such identification purposes. The stipulation shall in-

---

[2] "Upon the filing of such protest the collector shall within ninety days thereafter review his decision, and may modify the same in whole or in part and thereafter remit or refund any duties, charge, or exaction found to have been assessed or collected in excess, or pay any drawback found due, of which notice shall be given as in the case of the original liquidation, and against which protest may be filed within the same time and in the same manner and under the same conditions as against the original liquidation or decision. If the collector shall, upon such review, affirm his original decision, or if a protest shall be filed against his modification of any decision, and, in the case of merchandise entered for consumption, if all duties and charges shall be paid, then the collector shall forthwith transmit the entry and the accompanying papers, and all the exhibits connected herewith, to the United States Customs Court for due assignment and determination, as provided by law. Such determination shall be final and conclusive upon all persons, and the papers transmitted shall be returned, with the decision and judgment order thereon, to the collector, who shall take action accordingly, except in cases in which an appeal shall be filed in the United States Court of Customs and Patent Appeals within the time and in the manner provided by law." (Tariff Act of 1930, sec. 515; 19 U. S. C. 1515)

[3] Any party to a proceeding before the Customs Court who is dissatisfied with the decision of such court as to the construction of the law and the facts respecting the classification of imported merchandise and the rate of duty imposed thereon under such classification, or with any other appealable decision of such court, may, not later than sixty days after the entry of the decision, apply to the Court of Customs and Patent Appeals for a review of all questions of law and fact. In cases arising in the Territories and Possessions ninety days shall be allowed for making such application.

"The application shall be made by filing in the office of the clerk of the Court of Customs and Patent Appeals a concise statement of errors of law and fact complained of; and a copy of such statement shall be served on the collector, or on the importer, owner, consignee, or agent, as the case may be. Thereupon the Court of Customs and Patent Appeals shall immediately order the Customs Court to transmit the record and evidence taken, together with a certified statement of the facts involved in the case and the decision thereon; and all the evidence taken by and before the Customs Court shall be competent evidence before the Court of Customs and Patent Appeals. The decision of the Court of Customs and Patent Appeals shall be final unless set aside or modified by the Supreme Court, and the case shall be remanded to the Customs Court for further proceedings to be taken in pursuance of such decision." (28 U. S. C. 2601)

[4] "The Court of Customs and Patent Appeals shall have jurisdiction to review by appeal final decision of the Customs Court in all cases as to the construction of the law and the facts respecting the classification of merchandise, the rate of duty imposed thereon under such classification, and the fees and charges connected therewith, and all appealable questions as to the jurisdiction of the Customs Court and as to the laws and regulations governing the collection of the customs revenues." (28 U. S. C. 1541)

"Cases in the Court of Customs and Patent Appeals may be reviewed by the Supreme Court by writ of certiorari." (28 U. S. C. 1256)

dicate that the merchandise is so marked on the invoice by a statement in substantially the following form:

It is hereby stipulated and agreed by and between counsel for the plaintiff and the Assistant Attorney General, attorney for the United States, that the merchandise_____ _____, covered by the protests (Give description) enumerated in Schedule A, attached, and represented by the items marked "A," "B," "C," etc., on the invoice(s), and checked by _____ (The examiner will here insert his initials and his full name thereafter) _____, assessed with duty at the rate of _____ under paragraph _____, Tariff Act of_____, as _____, is the same in all material respects as the merchandise passed upon in the case of_____ _____ (Insert title and Abstract, T. D., C. D., or C. A. D. number) and therein held dutiable at the rate of_____ _____ under paragraph_____ _____, Tariff Act of _____,

The conclusion of the stipulation shall contain a declaration that the protests are limited to the items of merchandise indicated by the examiner by means of a symbol letter and his initials, and abandoned as to any other merchandise mentioned in the protest. There shall also be a waiver of future amendment to the protests and a statement that "the protests are deemed submitted on this stipulation."

(c) At the end of each stipulation there shall be added a certificate in one of the following forms: [8]

(d) If any protest number or entry number is to be deleted from a schedule of protest numbers or entry numbers attached to or embodied in a stipulation, a line shall be drawn through the number and the change shall be initialed by the attorney for the importer and the customs officers making and approving the certificate.

(e) No stipulation which does not conform to the requirements of these regulations, or with respect to which there is doubt, shall be certified unless it is approved by an authorized representative of the Assistant Attorney General's office.

[8] Form 1 shall be used when the examiner who examined the merchandise is still in the Service and shall be executed by such officer. Form 2 shall be used when the examiner who examined the merchandise is no longer in the Service or is incapacitated. It shall be executed by the examiner to whom the examination of merchandise of the kind covered by the stipulation has been assigned officially.

(FORM 1)

I have read the foregoing stipulation and am familiar with the merchandise covered by the decisions therein. I have personally passed the items covered by the foregoing stipulation and have seen samples of said items.

It is my opinion that the items covered by the stipulation are similar in all material respects to the merchandise covered by the test case, and I do so certify.

_____
(Signature of certifying officer.)

_____
(Title)

_____
(Date)

Approved:

_____
(Signature of reviewing officer.)

_____
(Title)

(FORM 2)

I have read the stipulation and am familiar with the merchandise covered by the decision cited therein.

I am of the opinion that the merchandise covered by the stipulation, and which was passed upon by former Examiner _____ _____, who is now deceased (or is not available because _____ _____), is similar in all material respects to the merchandise covered by the test case.

I base my opinion upon the examination of the official records showing the practice of former Examiner _____ in advisorily classifying similar merchandise imported by this plaintiff, the inspection of samples where available, and my knowledge of the importer's line of merchandise obtained by my personal examination of current and past importations.

_____
(Signature of certifying officer.)

_____
(Title)

_____
(Date)

Approved:

_____
(Signature of reviewing officer.)

_____
(Title)

REAPPRAISEMENT AND REVIEW

§ 17.6 Notice of advance.

The collector at the headquarters port, or the deputy collector in charge at any other port, shall promptly give notice of appraisement on customs Form 4301 when such notice is required by section 501, Tariff Act of 1930, as amended.[9] The notice shall be prepared in duplicate and the retained copy, with the date of mailing or delivery noted thereon, shall be securely attached to the invoice.

(Sec. 501, 46 Stat. 730, as amended; 19 U. S. C. 1501)

§ 17.7 Appeal for reappraisement; form; samples; certification of documents.

(a) When the collector appeals for reappraisement he shall use customs Form 4305 and at once forward a copy of the appeal to the consignee or his agent or attorney. Such appeal shall specify the particular items in the invoice affected if it does not apply to all.

(b) The appeal of a consignee or his agent shall be filed with the collector in triplicate.[7] Customs Form 4305 may be used for this purpose. The post office address of the consignee or his agent shall be set forth in each appeal.

(c) When an appeal for reappraisement by the collector or by the consignee or his agent has been completed, the collector shall transmit the invoices and all papers pertaining to reappraisement (except advance reports, customs Form 6445, and documentary evidence attached thereto) with customs Form 3085 to the United States Customs Court, 201 Varick Street, New York, N. Y.[8]

(d) When samples are sent to the court at the importer's request, the transportation charges shall be paid by him.

(e) The director of the Customs Information Exchange, New York, N. Y., the person authorized to act in that capacity during the absence or disability of the director, and any other official designated by the Commissioner of Customs, shall certify copies of official documents for the purpose set forth in section 2633, 28 U. S. Code.[10a]

(Sec. 1, 62 Stat. 980; 28 U.S.C. 2633)

§ 17.8 Review of reappraisement decision; filing application for.

Any application by or on behalf of the consignee for a review of a reappraisement decision shall be filed with collector in duplicate.[9] Customs Form 4307 may be used for this purpose.

(Sec. 1, 62 Stat. 981; 28 U.S.C. 2636)

[9] "The collector shall give written notice of appraisement to the consignee, his agent, or his attorney, if (1) the appraised value is higher than the entered value, or (2) a change in the classification of the merchandise results from the appraiser's determination of value, or (3) in any case, if the consignee, his agent, or his attorney requests such notice in writing before appraisement, setting forth a substantial reason for requesting the notice. * * *" (Tariff Act of 1930, sec. 501, as amended; 19 U. S. C. 1501)

[7] "* * * The decision of the appraiser, including all determinations entering into the same shall be final and conclusive upon all parties unless a written appeal for a reappraisement is filed with or mailed to the United States Customs Court by the collector within sixty days after the date of the appraiser's report, or filed by the consignee or his agent with the collector within thirty days after the date of personal delivery, or if mailed the date of mailing of written notice of appraisement to the consignee, his agent, or his attorney. * * *" (Tariff Act of 1930, sec. 501, as amended; 19 U. S. C. 1501)

"* * * A decision of the appraiser that foreign value, export value, or United States value can not be satisfactorily ascertained shall be subject to review in reappraisement proceedings under section 501; but in any such proceeding, an affidavit executed outside of the United States shall not be admitted in evidence if executed by any person who fails to permit a Treasury attaché to inspect his books, papers, records, accounts, documents, or correspondence, pertaining to the value or classification of such merchandise." (Tariff Act of 1930, sec. 402 (b); 19 U. S. C. 1402 (b))

[8] "* * * Every such appeal shall be transmitted with the entry and the accompanying papers by the collector to the United States Customs Court * * *." (Tariff Act of 1930, sec. 501 (a), as amended; 19 U. S. C. 1501 (a))

[10a] "In finding the value of merchandise, in reappraisement proceedings before a single judge of the Customs Court, affidavits and depositions of persons whose attendance cannot reasonably be had, price lists and catalogues, reports or depositions of consuls, customs agents, collectors, appraisers, assistant appraisers, examiners, and other officers of the Government may be admitted in evidence. Copies of official documents, when certified by an official duly authorized by the Secretary of the Treasury, may be admitted in evidence with the same force and effect as original documents. * * *" 28 U. S. C. 2633.

[9] "The Customs Court shall have exclusive jurisdiction of appeals for reappraisement and application for review of reappraisement of imported merchandise * * *." (28 U.S.C. 1582)

"In finding the value of merchandise, in reappraisement proceeding before a single judge of the Customs Court, affidavits and

ANTIDUMPING PROTESTS AND APPEALS; AMERICAN PRODUCERS' APPEALS AND PROTESTS

§ 17.9 Antidumping; protests and appeals; procedure.

(a) Appeals for reappraisement, applications for reviews of reappraisements, and protests relating to the Antidumping Act, 1921, shall be made in the same manner as appeals, applications for review, and protests relating to ordinary customs duties.[10]

(b) Notice of appraiser's reports which require the assessment of dumping duties shall be sent by the collector to the importer, consignee, or agent. (See § 17.6.)

(Sec. 210, 42 Stat. 15, as amended; 19 U. S. C. 169)

§ 17.11 American producers' appeals and protests; procedure.

(a) All complaints under section 516, Tariff Act of 1930, as amended,[11] and requests for information as to classifications and rates of duty under subdivision (b) thereof, shall be submitted to the Commissioner of Customs in triplicate. Complaints may be filed by complainants themselves or by duly authorized attorneys or agents on their behalf. A complaint filed by a corporation shall be signed by an officer thereof, and a complaint filed by a copartnership shall be signed by a member thereof. The name of the complainant, his principal place of business, and the fact that he is an American manufacturer, producer, or wholesaler shall be shown. The complaint shall present in detail the information required by section 516, as amended; shall show the class or kind of merchandise manufactured, produced, or sold which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner to establish the similarity between the domestic and foreign merchandise; and shall contain such information as the complainant may have as to the port or ports at which such merchandise is being

---

depositions of persons whose attendance cannot reasonably be had, price lists and catalogues, reports or depositions of consuls, customs agents, collectors, appraisers, assistant appraisers, examiners, and other officers of the Government may be admitted in evidence. Copies of official documents, when certified by an official duly authorized by the Secretary of the Treasury, may be admitted in evidence with the same force and effect as original documents.

"The value found by the appraiser shall be presumed to be the value of the merchandise. The burden shall rest upon the party who challenges its correctness to prove otherwise." (28 U.S.C. 2633)

"The judge assigned to hear an appeal for reappraisement of merchandise shall render his decision in writing, together with a statement of the reasons therefor and of the facts on which his decision is based." (28 U.S.C. 2635)

"(a) The decision of a single judge in a reappraisement proceeding shall be final and conclusive upon all parties unless within 30 days from the date it is filed with the collector of customs an application for its review is filed with or mailed to the Customs Court by the collector or other person authorized by the Secretary of the Treasury, and a copy of such application mailed to the consignee, or his agent or attorney, or filed by the consignee, or his agent or attorney, with the collector, by whom the same shall be forwarded forthwith to such court." (28 U.S.C. 2636(a))

"The decision of a division of the Customs Court, in any matter within its jurisdiction shall be the decisions of such court, and shall be final and conclusive upon all parties, unless a party to such proceeding takes an appeal to the Court of Customs and Patent Appeals within the time and manner provided in section 2601 of this title, but if the decision relates to a reappraisement of merchandise, such appeal to the Court of Customs and Patent Apeals shall be upon questions of law only." (28 U.S.C. 2637)

[10] "* * * the determination of the appraiser or person acting as appraiser as to the foreign market value or the cost of production, as the case may be, the purchase price and the exporter's sales price and the action of the collector in assessing special dumping duty, shall have the same force and effect and be subject to the same right of appeal and protest, under the same conditions and subject to the same limitations; * * * as in the case of appeals and protests relating to customs duties under existing law." (19 U. S. C. 169)

[11] "(a) *Value.* Whenever an American manufacturer, producer, or wholesaler believes that the appraised value of any imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him is too low, he may file with the Secretary of the Treasury a complaint setting forth the value at which he believes the merchandise should be appraised and the facts upon which he bases his belief. The Secretary shall thereupon transmit a copy of such complaint to the appraiser at each port of entry where the merchandise is usually imported. Until otherwise directed by the Secretary, the appraiser shall report each subsequent importation of the merchandise giving the entry number, the name of the importer, the appraised value, and his reasons for the appraisement. If the Secretary does not agree with the action of the appraiser, he shall instruct the collector to file an appeal for a reappraisement as provided in section 501 of this Act, and such manufacturer, producer, or wholesaler shall have the right to appear and to be heard as a party in interest under such rules as the United States Customs Court may prescribe. The Secretary shall notify such manufacturer, producer, or wholesaler of the action taken by such appraiser, giving the port of entry, the entry number, and the appraised value of such merchandise and the action he has taken thereon. If the appraiser advances the entered value of merchandise upon the information furnished by the American manufacturer, producer, or wholesaler, and an appeal is taken by the consignee, such manufacturer, producer, or wholesaler shall have the right to appear and to be heard as a party in interest, under such rules as the United States Customs Court may prescribe. If the American manufacturer, producer, or wholesaler is not satisfied with the action of the Secretary, or the action of the appraiser thereon, he may file, within thirty days after the date of the mailing of the Secretary's notice, an appeal for a reappraisement in the same manner and with the same effect as an appeal by a consignee under the provisions of section 501 of this Act.

"(b) *Classification.* The Secretary of the Treasury shall, upon written request by an American manufacturer, producer, or wholesaler, furnish the classification of, and the rate of duty, if any, imposed upon, designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him. If such manufacturer, producer, or wholesaler believes that the proper rate of duty is not being assessed, he may file a complaint with the Secretary, setting forth a description of the merchandise, the classification, and the rate or rates of duty he believes proper, and the reasons for his belief. If the Secretary decides that the classification of, or rate of duty assessed upon, the merchandise is not correct, he shall notify the collectors as to the proper classification and rate of duty and shall so inform the complainant, and such rate of duty shall be assessed upon all such merchandise entered for consumption or withdrawn from warehouse for consumption after thirty days after the date such notice to the collectors is published in the weekly Treasury Decisions. If the Secretary decides that the classification and rate of duty are correct, he shall so inform the complainant. If dissatisfied with the decision of the Secretary, the complainant may file with the Secretary, not later than thirty days after the date of such decision, notice that he desires to protest the classification of, or rate of duty assessed upon, the merchandise. Upon receipt of such notice from the complainant, the Secretary shall cause publication to be made of his decision as to the proper classification and rate of duty and of the complainant's desire to protest, and shall thereafter furnish the complainant with such information as to the entries and consignees of such merchandise, entered after the publication of the decision of the Secretary at the port of entry designated by the complainant in his notice of desire to protest, as will enable the complainant to protest the classification of, or rate of duty imposed upon, such merchandise in the liquidation of such an entry at such port. The Secretary shall direct the collector at such port to notify such complainant immediately when the first of such entries is liquidated. Within thirty days after the date of mailing to the complainant of notice of such liquidation, the complainant may file with the collector at such port a protest in writing setting forth a description of the merchandise and the classification and rate of duty he believes proper. Notwithstanding such protest is filed, merchandise of the character covered by the published decision of the Secretary, when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, rendered under the provisions of subsection (c) of this section, not in harmony with the published decision of the Secretary, shall be classified and the entries liquidated in accordance with such decision of the Secretary, and, except as otherwise provided in this Act, the liquidations of such entries shall be final and conclusive upon all parties. * * *

"(c) *Hearing and determination.* A copy of every appeal and every protest filed by an American manufacturer, producer, or wholesaler under the provisions of this section shall be mailed by the collector to the consignee or his agent within five days after the filing thereof, and such consignee or his agent shall have the right to appear and to be heard as a party in interest before the United States Customs Court. The collector shall transmit the entry and all papers and exhibits accompanying or connected therewith to the United States Customs Court for due assignment and determination of the proper value or of the proper classification and rate of duty." (Tariff Act of 1930, sec. 516, as amended; 19 U. S. C. 1516)

"In reappraisement or classification proceedings instituted under section 1516 of Title 19, an American manufacturer, producer, or wholesaler shall not have the right to inspect any documents or papers of the consignee or importer disclosing any information which the Customs Court or any judge or division thereof deems unnecessary or improper to be disclosed to him." (28 U. S. C. 2634 (b))

---

imported into the United States. The

imported into the United States. The complaint shall be itemized as to each class or kind of merchandise involved.

(b) All information secured by the collector as to the character and description of merchandise of the kind covered by a complaint, entered after publication by the Commissioner of his decision as to the proper classification and rate of duty, and samples of such merchandise, shall be made available to the complainant upon application by him to the collector.

(c) Notice of the liquidation of the first of the entries to be liquidated, covering merchandise of a class or kind which would enable the complainant to present the issue desired, shall be given to the complainant by the collector, as required by section 516 (b), Tariff Act of 1930, as amended. If, upon examination of the information secured by the collector as to this entry and inspection of the sample, if any, the complainant believes and the collector agrees that the merchandise or the facts surrounding this importation are not sufficient to raise the issue involved in the complaint, the collector shall then give the complainant notice of the first liquidation thereafter of such an entry as will permit the framing of the issue covered by the complaint, and shall, under the same condition, continue to give such notices for so long as he is of the opinion that the complainant is sincere in his desire to protest.

(d) A complainant shall not be permitted in any case to inspect any documents or papers of the consignee or importer lodged in the customhouse, except upon instructions of the Commissioner.

(e) All appeals for reappraisement and protests filed under section 516, Tariff Act of 1930, as amended, shall be in triplicate.

(Sec. 516, 46 Stat. 735, as amended; 19 U. S. C. 1516)

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

GENERAL PROVISIONS

Sec.
18.1 Carriers; application to bond.
18.2 Receipt by carrier; manifest.
18.3 Transshipment; transfer by bonded cartman.
18.4 Sealing conveyances and compartments; labeling packages; warning cards.
18.5 Diversion.
18.6 Short shipments; shortages; entry and allowance.
18.7 Lading for exportation, verification of.
18.8 Liability of carrier for shortage, irregular delivery, or nondelivery; penalties.
18.9 Examination by inspectors of trunk line associations or agents of the Interstate Commerce Commission.
18.10 Kinds of entry.
18.10a Special manifest.

IMMEDIATE TRANSPORTATION WITHOUT APPRAISEMENT

18.11 Entry; classes of goods for which entry is authorized; form used.
18.12 Entry at port of destination.

SHIPMENT OF BAGGAGE IN BOND

18.13 Procedure; manifest.
18.14 Shipment of baggage in transit to foreign countries.
18.15 Domestic baggage and accompanied commercial travelers' samples through foreign territory.

WAREHOUSE AND REWAREHOUSE WITHDRAWALS FOR TRANSPORTATION

18.16 Form of withdrawal; time.
18.17 Withdrawal procedure.
18.18 Forwarding procedure; procedure at destination.

WAREHOUSE WITHDRAWALS FOR EXPORTATION OR FOR TRANSPORTATION AND EXPORTATION

18.19 Procedure.

MERCHANDISE IN TRANSIT THROUGH THE UNITED STATES TO FOREIGN COUNTRIES

18.20 Entry procedure; forwarding.
18.21 Restricted and prohibited merchandise.
18.22 Procedure at port of exit.
18.23 Change of destination; change of entry.
18.24 Retention of goods on dock; splitting of shipments.

EXPORTATION FROM CUSTOMS CUSTODY OF MERCHANDISE UNENTERED OR COVERED BY AN UNLIQUIDATED CONSUMPTION ENTRY, OR MERCHANDISE DENIED ADMISSION BY THE GOVERNMENT

Sec.
18.25 Direct exportation.
18.26 Indirect exportation.
18.27 Port marks.

FINAL PORT OF EXPORTATION OF MERCHANDISE CROSSING CONTIGUOUS FOREIGN TERRITORY

18.28 Port of exportation; cancellation of charge against bond.

MERCHANDISE ARRIVING FROM A CONTIGUOUS COUNTRY IN SEALED VESSELS OR VEHICLES

18.29 Sealed shipment authorized.
18.30 Procedure; documents required.
18.31 Merchandise in less-than-carload lots.

AUTHORITY: §§ 18.1 to 18.31 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

GENERAL PROVISIONS

§ 18.1 Carriers; application to bond.

(a) Merchandise to be transported from one port to another in the United States in bond, except as provided for in paragraph (b), shall be delivered to a common carrier or contract carrier bonded for that purpose, but such merchandise may be transported with the use of the facilities of other bonded or nonbonded carriers.[1] For the purposes of this section, the term "common carrier" means a common carrier of merchandise owning or operating a railroad, steamship, or other transportation line or route or a freight forwarder author-

[1] Under such regulations and subject to such terms and conditions as the Secretary of the Treasury shall prescribe—

(1) Any common carrier of merchandise owning or operating a railroad, steamship, or other transportation line or route for the transportation of merchandise in the United States,

(2) Any contract carrier authorized to operate as such by any agency of the United States, and

(3) Any freight forwarder authorized to operate as such by any agency of the United States,

upon application, may, in the discretion of the Secretary, be designated as a carrier of bonded merchandise for the final release of which from customs custody a permit has not been issued. (19 U.S.C. 1551.)

ized to operate as such by any agency of the United States.

(b) Pursuant to Public Resolution 108, of June 19, 1936,[2] and subject to compliance with all other applicable provisions of this part, the collector of customs at New York, upon the request of the party in interest, may permit merchandise entered and examined for customs purposes to be transported in bond between the ports named in the resolution by bonded cartmen or lightermen duly qualified in accordance with the provisions of Part 21 of this chapter, if the collector is satisfied that the transportation of such merchandise in this manner will not endanger the revenue.

(c) A common carrier or contract carrier desiring to receive merchandise for transportation in bond shall file with the collector of customs a bond on customs Form 3587 in a sum to be recommended by the collector, accompanied by the fee of $45 prescribed by § 24.12 of this chapter. A common carrier shall also file with the collector a certified extract of its charter showing that it is authorized to engage in common carriage, and a statement that it is operating or intends to operate as a common carrier. In addition to the foregoing a freight forwarder shall submit a certificate from the appropriate agency of the United States showing that the applicant is authorized to operate as a freight forwarder by that agency. The extract and statement need not be submitted in the case of railroad or steamship companies generally known to be engaged in common carriage. A contract carrier shall also submit a certificate from the appropriate agency of the United States showing that the carrier is authorized to operate as a contract carrier by that agency, and a statement showing that it is operating or intends to operate as a contract carrier.

(d) In the case of motor carrier bonds submitted for consideration, the following shall be filed in addition to the requirements mentioned above:

(1) A detailed description of the equipment to be used, showing whether the trucks are open or closed and whether they can be secured with customs seals, the number of trucks operated, and whether such trucks are owned or leased by the proposed bonded motor carrier, and, if leased, whether the trucks are operated by employees of the lessee or lessor.

(2) A list of the lines or routes over which the principal operates or will operate, setting out the cities or towns at which the trucks stop or lay over en route and where and in whose custody the trucks remain during such stops or layovers.

(3) A definite statement as to whether the principal transports merchandise according to schedule over each of the lines or routes named or performs carriage only when a shipment is secured for transportation.

(4) A detailed description of the terminal facilities employed by the principal at the points of origin and destination shown on the list of lines or routes.

(5) A statement showing that facilities are available for the segregation and safeguarding of the packages designated by the collector for examination from a particular shipment until such packages are called for by the public store cartman and removed to the public stores for examination.

(e) Canadian and Mexican common carriers by motor vehicles may be bonded for the transportation of merchandise between two ports in Canada or Mexico through the United States. (See § 5.11 of this chapter.)

(f) Carrier bonds may be discontinued at any time by the Bureau or the collector of customs at the headquarters port where the bond is filed. Bonded carriers desiring to discontinue such bonds shall make application therefor to such collector.

(Sec. 551, 46 Stat. 742, as amended, 49 Stat. 1536; 19 U.S.C. 1551, 1551a)

[2] "The Secretary of the Treasury be, and he is hereby, authorized, when it appears to him to be in the interest of commerce, and notwithstanding any provision of law or regulation requiring that the transportation of imported merchandise be by a bonded common carrier, to permit such merchandise which has been entered and examined for customs purposes to be transported by bonded cartmen or bonded lightermen between the ports of New York, Newark, and Perth Amboy, which are all included in Customs Collection District Numbered 10 (New York): *Provided*, That this resolution shall not be construed to deprive any of the ports affected of its rights and privileges as a port of entry." (19 U. S. C. 1551a)

§ 18.2 Receipt by carrier; manifest.

(a) When merchandise is delivered to a bonded carrier for transportation in bond, the carrier's receipt shall be given immediately to the lading inspector on the customs in-bond manifest covering the merchandise. The merchandise shall be laden on the conveyance under the supervision of a customs officer, unless the transporting conveyance is not to be sealed with customs seals or the lading inspector accepts the check of the carrier as to the merchandise laden thereon.

(b) A manifest, customs Form 7512, containing a description of the merchandise shall be prepared by the carrier or shipper and signed by the agent of the carrier. Except as prescribed in § 5.11 of this chapter, relating to merchandise in transit through the United States between ports in contiguous foreign territory, a separate set shall be prepared for each entry and, if the consignment is contained in more than one conveyance, a separate set shall be prepared for each conveyance.

(c) The manifest shall be filed in duplicate and, after the goods have been laden and the carrier has receipted all copies, one copy shall be delivered to the conductor, master, or person in charge to accompany the conveyance and be delivered to the collector at destination for his record. An extra copy of customs Form 7512 may be required for use as a permit to the inspector or customs warehouse officer at the point where the merchandise is to be laden. When a copy of the carrier's manifest is lost or cannot be produced, a copy shall be made of whichever manifest is available.

(Sec. 551, 46 Stat. 742, as amended; 19 U. S. C. 1551)

§ 18.3 Transshipment;[3] transfer by bonded cartman.

(a) When bonded merchandise in one conveyance is to be transshipped under customs supervision to another single conveyance while en route to the port of destination or departure from the United States, the copy of the manifest on customs Form 7512 accompanying the merchandise to each such place of transshipment shall be surrendered to the collector of customs at that place for execution of a certificate of transfer thereon and for return to the carrier to accompany the merchandise to such port of destination or departure.

(b) When bonded merchandise is to be transshipped in accordance with paragraph (a) of this section into more than one conveyance, there shall be prepared by the carrier, agent of the shipper, or forwarder for each such conveyance on each transshipment one additional copy of the carrier's manifest on customs Form 7512 which accompanies the merchandise to that place. The Form 7512 which accompanies the shipment to the place of transshipment shall be surrendered to the collector of customs there. After the execution by the customs officer supervising the transshipment of a certificate of transfer on each such additional copy, it shall be delivered to the conductor, master, or person in charge of the conveyance in which the merchandise is forwarded, for delivery to the collector of customs at the port of destination or departure from the United States for his record.

(c) If it becomes necessary at any point in transit to remove the customs seals from a conveyance containing bonded merchandise for the purpose of transferring its contents to another conveyance or to gain access to the shipment because of casualty or other good reason, and it cannot be done under customs supervision because of the element of time involved or because there is no customs officer stationed at such point, a responsible agent of the carrier may remove the seals, supervise the transfer or handling of the merchandise, seal the conveyance in which the shipment goes forward, and make appropriate notation on the conductor's or master's copy of the manifest of his action, including the date, serial number of the new seals applied, and the reason therefor. This authorization shall not apply in any case not involving a real emergency.

(d) All transfers to or from the conveyance or warehouse of merchandise undergoing transportation in bond shall be made under the provisions of Part 21 and at the expense of the parties in interest, unless the carrier's bond is liable for the safekeeping and delivery of the merchandise while it is being transferred.

(Secs. 551, 565, 46 Stat. 742, as amended, 747; 19 U. S. C. 1551, 1565)

[3] For provisions for transshipment or unlading due to accident or other casualty, see § 4.31 of this chapter.

1551a)

§ 18.4 Sealing conveyances and compartments; labeling packages; warning cards.

(a) Conveyances or compartments in which bonded merchandise is transported shall be sealed with red in-bond customs seals (except as otherwise provided for by § 5.11 (b) of this chapter) under customs supervision, except that when the compartment or conveyance cannot be effectively sealed, as in the case of merchandise shipped in open cars or barges, or on the decks of vessels, or when it is known that any seals would necessarily be removed outside the jurisdiction of the United States for the purpose of discharging or taking on cargo, or when it is known that the breaking of the seals will be necessary to ventilate the hatches, or in other similar circumstances, such sealing may be waived with the consent of the carrier and an appropriate notation of such waiver shall be made on the manifest. The Commissioner of Customs may authorize the waiver of sealing of conveyances or compartments in which bonded merchandise is transported in other cases when in his opinion the sealing thereof is unnecessary to protect the revenue or to prevent violations of the customs laws and regulations.

(b) Ports at which the facilities are insufficient to maintain continuous customs supervision over vessels arriving with bonded cargo while the bonded merchandise is not under customs seals shall permit the vessels to proceed to destination without further sealing and notation to this effect shall be made on the manifest.

(c) Merchandise not under bond may be transported in sealed conveyances or compartments containing bonded goods when destined for the same place or places beyond, but not when intended for intermediate places.

(d) The seals to be used in sealing conveyances, compartments, or packages are prescribed by the Department and may be obtained in accordance with § 24.13 of this chapter.

(e) Except as otherwise provided for in this paragraph, packages shipped in bond or by a carrier permitted to transport articles under the last sentence of section 553 of the tariff act, as amended, shall be corded and sealed or, in lieu thereof, the carriers shall furnish and attach to each such package a warning label on bright red paper, not less than 5 by 8 inches in size, containing the following legend in black type of a conspicuous size:

U. S. CUSTOMS

Transportation Entry No. ----------
From ---------- To ----------
This package is under bond and must be delivered intact to the chief officer of the customs at ----------

WARNING

Two years' imprisonment or $5,000 fine or both, is the penalty for unlawful removal of this package or any of its contents.

Such cording and sealing or labeling of the packages so shipped is not required either when the packages are transported in a conveyance or compartment sealed with customs seals, or when the sealing of the conveyance or compartment in which the packages are transported is waived under paragraph (a) or (b) of this section. When the packages are shipped in a railroad car the sealing of which is practicable but which is not sealed because merchandise not being transported in bond is or may be carried in the same car, the packages being transported in bond shall be corded and sealed or labeled.

(f) The warning label, when used, shall be pasted securely on the package under customs supervision as close as practicable to the mark or number on the package. Additional labels may be required by the collector in such places on the package as he shall specify in any case where he is of the opinion that one is not adequate.

(g) When, in the case of crates and similar packages, it is impossible to attach the warning labels by pasting, bright red shipping tags of convenient size, large enough to be conspicuous and containing the same legend as the labels, shall be used in lieu of labels. Such tags shall be wired or otherwise securely fastened to the packages in such manner as not to injure the merchandise.

(h) Bonded carriers shall furnish and securely attach to the side doors of cars, to the doors of compartments, and on vehicles carrying bonded merchandise which are secured with customs seals, bright red cards, 8 by 10¼ inches in size, which shall be attached near such seals and on which shall be printed in large, clear, black letters the following:

United States Customs. Two years' imprisonment, or $5,000 fine, or both, is the penalty for the unlawful removal of United States customs seals on this car, vehicle, or compartment. United States customs officers only are authorized to break these seals.
Car or vessel----------
Number or name----------
From ----------
To ----------

NOTICE: The merchandise in this car, vehicle, or compartment shall be delivered to the chief officer of the customs at ----------

(Sec. 551, 46 Stat. 742, as amended; 19 U.S.C. 1551)

§ 18.5 Diversion.

(a) Collectors of customs at ports of first arrival may permit merchandise forwarded under any class of transportation entry to be diverted to any other port than the port named in the entry upon application of the consignee or agent. An application to divert made under this section shall be furnished in the number of copies required for the puposes of local administration.

(b) The collector at an intermediate port may permit merchandise in transit under bond under any class of transportation entry to be entered at his port for consumption, warehouse, exportation, further transportation in bond, or under any bond provision of the tariff laws.

(c) Merchandise received at the port of original destination under any class of transportation entry may be forwarded to another port or returned to the port of origin on the same transportation entry, unless the merchandise has been placed in general order in which case a new transportation entry shall be required.

(d) If it is desirable to split a shipment at a port of destination and to enter a portion for consumption or warehouse and forwarded the balance in bond, or to divert the entire shipment or a part thereof to more than one port, the collector at the port where such diversion takes place shall complete the original transaction, notify the port of origin, and require the filing of a new transportation entry or entries for the portion or portions forwarded.

(e) The diversion of shipments in bond which are subject on importation to restriction or prohibition under quarantines and regulations administered by the Bureau of Animal Industry or the Bureau of Entomology and Plant Quarantine shall be allowed only upon written permission or under regulations issued by the agency concerned.

(Secs. 551–553, 46 Stat. 742, as amended; 19 U. S. C. 1551–1553)

§ 18.6 Short shipments; shortages; entry and allowance.

(a) When there has been a short shipment and the short-shipped packages are subsequently received, they may be forwarded under a proper supplemental transportation entry bearing the original entry number or, if a new bill of lading has been issued therefor, under a new transportation entry.

(b) When there is a shortage of one or more packages or nondelivery of an entire shipment, and inquiry discloses that the merchandise has been delivered directly to the consignee, entry therefor may be accepted if the merchandise can be recovered intact without any of the packages having been opened. In such cases, any shortage from the invoice quantity shall be presumed to have occurred while the merchandise was in the possession of the bonded carrier.

(c) If the merchandise cannot be recovered intact, as specified in paragraph (b) of this section, entry shall not be accepted and a copy of the collector's report on customs Form 3861, showing the amount of duty or any internal-revenue tax due, shall be sent to the initial carrier for its information, investigation, and report within 90 days.

(d) An allowance in duty on merchandise reported short at destination, including merchandise found by the appraising officer to be damaged and worthless, and animals and birds found by the discharging officer to be dead on arrival at destination, shall be made in the liquidation of the entry.

(e) In the case of shipments arriving in the United States by rail or seatrain which are forwarded under customs in-bond seals under the provisions of § 5.11 of this chapter, and §§ 18.11, 18.20, or 18.29, a notation shall be made by the carrier or shipper on the in-bond manifest, customs Form 7512, to show whether the shipment was transferred to the car designated in the manifest or whether it was laden in the car in the foreign country, which shall be named.

(Secs. 551, 552, 553, 46 Stat. 742, as amended; 19 U.S.C. 1551, 1552, 1553)

§ 18.7 Lading for exportation, verification of.

(a) When merchandise (including baggage) covered by an entry or withdrawal for transportation and exportation is delivered to the exporting carrier at the port of destination, the delivering carrier's copy of the in-bond manifest shall be promptly delivered to the customs lading officer.

(b) The collector shall require only such supervision of the lading for exportation of merchandise covered by an entry or withdrawal for exportation or for transportation and exportation as is reasonably necessary to satisfy him that the merchandise has been laden on the exporting conveyance.

(c) Whenever the circumstances warrant, and occasionally in any event, collectors shall request the Customs Agency Service to check export entries and withdrawals against the records of the exporting carriers. Such check or verification shall include an examination of the carrier's records of claims and settlement of export freight charges, and any other records which may relate to the transaction.

(Secs. 553, 557, 46 Stat. 742, as amended, 744, as amended, sec. 646, 67 Stat. 520; 19 U. S. C. 1553, 1557, 1646a)

§ 18.8 Liability of carrier for shortage, irregular delivery, or nondelivery; penalties.

(a) The initial bonded carrier shall be responsible for shortage, irregular delivery, or nondelivery at destination or port of exit of bonded merchandise, rereceived by it for carriage. When sealing is waived, any loss found to exist at destination shall be presumed to have occurred while the merchandise was in the possession of the carrier, unless conclusive evidence to the contrary is produced.

(b) Penalties imposed as liquidated damages under the carrier's bond for shortage, failure to deliver, or irregular delivery shall be as follows:

(1) In the case of shortage, failure to deliver, or delivery direct to the consignee or other person of any merchandise free of duty, an amount equal to the value of the missing merchandise, not to exceed in any one shipment the sum of $25.

(2) In the case of shortages or failure to deliver merchandise subject to duty, an amount equal to the duties on the missing merchandise or, if the duties cannot be estimated promptly, an amount equal to 70 per centum of the value shown on the manifest.

(3) In the case of unauthorized delivery directly to the consignee or other person of merchandise subject to duty, an amount equal to one and one-quarter times the estimated duty thereon, or, if the duties cannot be estimated promptly, an amount equal to 70 per centum of the value shown on the manifest.

(c) In addition to the penalties described in paragraph (b) of this section, the carrier shall pay any internal-revenue taxes or other taxes accruing to the United States on the missing merchandise, together with all costs, charges, and expenses caused by the failure to make the required transportation, report, and delivery.

(d) In any case in which liquidated damages imposed in accordance with this section do not aggregate over $20,000 and the collector is satisfied by evidence submitted to him with an application for relief from the payment thereof that any shortage, irregular delivery, nondelivery, or any failure to obtain customs supervision was without any intent to evade any law or regulation, the collector may cancel such claim upon the payment of any lesser amount or without the payment of any amount, as he may deem appropriate under the law and in view of the circumstances.

(Sec. 551, 623, 46 Stat. 742, as amended, 759, as amended; 19 U.S.C. 1551, 1623)

§ 18.9 Examination by inspectors of trunk line associations or agents of the Interstate Commerce Commission.

(a) Upon presentation of proper credentials showing the applicant to be a representative of the Trunk Line Association, the Interstate Commerce Commission, the Joint Rate Inspection Bureau of Chicago, or the Southern Weighing and Inspection Bureau of Atlanta, inspectors of customs in charge shall permit such applicant to open and examine packages containing in-bond merchandise described in the manifest in general terms for the purpose of ascertaining whether the merchandise is properly classified under the interstate commerce laws.

(b) The opening and examination of such packages shall be without expense to the Customs Service or the owner of the goods and shall be done in the presence of a customs officer. The contents of the cases shall not be removed or disturbed further than is necessary to ascertain the character thereof. The customs officer shall require the packages to be securely closed, and shall note on the manifest the packages so inspected, the date, and by whom inspected.

(Sec. 551, 46 Stat. 742, as amended; 19 U.S.C. 1551)

§ 18.10 Kinds of entry.

(a) The following entries and withdrawals may be made for merchandise to be transported in bond:[4]

(1) Entry for immediate transportation without appraisement.

(2) Warehouse or rewarehouse withdrawal for transportation.

(3) Warehouse or rewarehouse withdrawal for exportation or for transportation and exportation.

(4) Entry for transportation and exportation.

(5) Entry for exportation.

(b) The copy of each entry or withdrawal made in any of the classes named in paragraph (a) of this section which is retained in the office of the forwarding collector shall be signed by the party making the entry or withdrawal. In the case of shipments to the Virgin Islands (U.S.) under paragraph (a), (3), (4), or (5) of this section, one additional copy of the entry or withdrawal on customs Form 7512 shall be filed and shall be mailed by the receiving collector to the collector of customs, Charlotte Amalie, St. Thomas, Virgin Islands (U.S.).

(Secs. 552, 553, 557, 46 Stat. 742, as amended, 744, as amended; 19 U.S.C. 1552, 1553, 1557)

§ 18.10a Special manifest.

Merchandise for which no other type of bonded movement is appropriate may be shipped in bond from one port to another when such shipment is authorized by the collector of customs having custody of the merchandise. For this purpose customs Form 7512 prepared in quadruplicate shall be used as a special manifest.

[4] Before shipping merchandise in bond to another port for the purpose of warehousing or rewarehousing, the shipper should ascertain whether warehouse facilities are available at the intended port of destination.

IMMEDIATE TRANSPORTATION WITHOUT APPRAISEMENT

§ 18.11 Entry; classes of goods for which entry is authorized; form used.

(a) Entry for immediate transportation without appraisement may be made under section 552, Tariff Act of 1930,[5] for merchandise in general-order warehouse at any time within 1 year from the date of importation.

(b) The carrier bringing the merchandise to the port of arrival, the carrier who is to accept the merchandise on its bond for transportation to the port of destination, or any person shown by the bill of lading or manifest, by a certificate of the importing carrier, or by any other document satisfactory to the collector to have a sufficient interest in the merchandise for that purpose may make entry for immediate transportation without appraisement.

(c) Before a shipment covered by an entry for immediate transportation or a manifest of baggage shipped in bond (other than baggage to be forwarded in bond to a customs station—see § 18.13 (a)), shall be allowed to be transported directly to a place of deposit outside a port of entry for examination and release as contemplated by section 484 (f), Tariff Act of 1930, as amended,[6] the consent of the collector and appraiser for the port of entry designated in the transportation

[5] "Any merchandise, other than explosives and merchandise the importation of which is prohibited, arriving at a port of entry in the United States may be entered, under such rules and regulations as the Secretary of the Treasury may prescribe, for transportation in bond without appraisement to any other port of entry designated by the consignee, or his agent, and by such bonded carrier as he designates, there to be entered in accordance with the provisions of this Act." (Tariff Act of 1930, sec. 552; 19 U. S. C. 1552)

Special provisions concerning the shipment of baggage under this provision of law are contained in § 18.13.

[6] "* * * in the case of articles not subject to a quantitative or tariff-rate quota, entry for the entire quantity covered by an entry for immediate transportation made under section 552 of this Act may be accepted at the port of entry designated by the consignee, or his agent, in such entry after the arrival of any part of such quantity at such designated port or at such other place of deposit as may be authorized in accordance with regulations prescribed by the Secretary of the Treasury." (Tariff Act of 1930, sec. 484 (f), as amended; 19 U. S. C. 1484 (f))

entry or baggage manifest must first be secured. The importer must furnish such collector with a stipulation that, promptly upon the arrival of any part of the merchandise or baggage at the place of deposit, he will file an entry for the shipment at the port of entry designated in the transportation entry or baggage manifest and comply with the provisions of § 14.2 (f) of this chapter.

(d) Carload shipments of livestock shall not be entered for immediate transportation without appraisement unless they will arrive at destination before it becomes necessary to remove the seals for the purpose of watering and feeding the animals, or unless the route be such that the removal of the seals and the watering, feeding, and reloading of the stock may be done under customs supervision.

(e) Entries for immediate transportation without appraisement covering merchandise subject to detention of supervision by any Federal agency shall contain a sufficient description of the merchandise to enable the representative of the agency concerned to determine the contents of the shipment. Such merchandise covered by quarantines and regulations adminstered by the Bureau of Entomology and Plant Quarantine shall be forwarded under such entries only upon written permission of or under regulations issued by that Bureau.[1]

(f) One or more entire packages of merchandise covered by an invoice from one consignor to one consignee may be entered for consumption or warehouse at the port of first arrival, and the remainder for immediate transportation without appraisement, provided all the merchandise covered by the invoice is entered simultaneously.

(g) Several importations may be consolidated in one immediate transportation without appraisement entry when the bills of lading or carrier's certificates name only one consignee at the port of first arrival.

(h) Customs Form 7512 shall be used as a combined entry, invoice, and manifest, and six copies shall be required at the port of origin. However, the collector at such port may require an extra copy or copies to be furnished for use in connection with the delivery of the merchandise to the bonded carrier named in the entry. The merchandise shall be described on this form in such detail as to enable the collector to make an estimate of the duties due thereon. The collector may require evidence to satisfy him of the approximate correctness of the value or quantity stated in the entry. The value stated on entry at the port of first arrival is not binding on the ultimate consignee making entry at the port of destination.

(Secs. 484, 552, 46 Stat. 722, as amended, 742; 19 U.S.C. 1484, 1552)

§ 18.12 Entry at port of destination.

(a) Merchandise received under an immediate transportation without appraisement entry may be entered for transportation and exportation or for immediate exportation, or under any other form of entry, and shall be subject to all the conditions pertaining to merchandise entered at a port of first arrival if not more than 1 year has elapsed from the date of original importation. If more than 1 year has elapsed, only an entry for consumption shall be accepted. Such entry shall show the name of the port of first arrival, the transporting carrier, and the number of the immediate transportation entry. (See § 20.2 of this chapter.)

(b) The right to make entry at the port of destination shall be determined in accordance with the provisions of § 8.6 of this chapter.

(c) When a portion of a shipment is entered at the port of first arrival and the remainder is entered for consumption or warehouse at one or more subsequent ports, the entry at each subsequent port may be made on an extract of the invoice as provided for in § 8.11 (b) of this chapter.

(d) All importations forwarded under immediate transportation without appraisement entries shall be held by the bonded carrier at the port of destination until released by the collector of customs.

(e) All the merchandise included in an immediate transportation without appraisement entry not entered within 5 days, exclusive of Sundays and holidays, after delivery of the manifest to the collector at the port of destination shall be treated as unclaimed unless the collector, with the concurrence of the carrier, authorizes in writing a longer time.

(Secs. 484, 552, 46 Stat. 722, as amended, 742; 19 U.S.C. 1484, 1552)

Shipment of Baggage in Bond

§ 18.13 Procedure; manifest.

(a) Baggage may be forwarded in bond to another port of entry, or to a customs station listed in § 1.2 of this chapter, at the request of the passenger, the transportation company, or the agent of either, with the use of a baggage manifest described in paragraph (b) of this section without examination or assessment of duty at the port or station of first arrival. For this purpose, the carrier shall furnish cards of bright red cardboard not less than 2½ by 4 inches in size with the following printed text, for attachment (by wire or cord) to the baggage:

UNITED STATES CUSTOMS

Check No. _____
Baggage in bond:
Carrier _____
From _____

TO COLLECTOR OF CUSTOMS

At (destination) _____

This baggage must be delivered by carrier to the collector of customs at destination. Failure to do so renders the carrier liable to a fine.

(b) A customs manifest for baggage shipped in bond, customs Form 7520, shall be prepared in quadruplicate for each shipment. One copy shall be delivered to the carrier to accompany the baggage and shall be delivered by the carrier to the collector of customs at destination as a notice of arrival.

(c) Baggage arriving in bond or otherwise at a port on the Atlantic or Pacific coast, destined to a port on the opposite coast, may be laden under customs supervision, without examination and without being placed in bond, on a vessel proceeding to the opposite coast, provided the vessel will proceed to the opposite coast without stopping at any other port on the first coast.

(d) Checked baggage may be shipped in bond from places in contiguous foreign territory at which United States customs officers are stationed. The procedure shall be the same as though the shipment originated at a port of entry in the United States and no customs formalities shall be required at the place of actual first arrival in the United States, unless such place is the final destination.

(Secs. 498 (a), 552, 46 Stat. 728, as amended, 742; 19 U.S.C. 1498(a), 1552)

§ 18.14 Shipment of baggage in transit to foreign countries.

The baggage of any person in transit through the United States from one foreign country to another may be shipped over a bonded route for exportation. Such baggage shall be shipped under the regulations prescribed in § 18.13, except that the card or paster shall be printed on yellow paper and shall read "Baggage in bond for export." See § 5.11 of this chapter for the regulations applicable to baggage shipped in transit through the United States between points in Canada or Mexico.

(Secs. 498, 553, 46 Stat. 728, as amended, 742, as amended; 19 U.S.C. 1498, 1553)

§ 18.15 Domestic baggage and accompanied commercial travelers' samples through foreign territory.

(a) Upon the request of the carrier, a special manifest furnished by the carrier may be completed and attached by wire or cord, under customs supervision, to each piece of checked baggage of domestic origin transported from port to port in the United States via a foreign port or through foreign territory. Except as provided below, this special manifest shall be on white cardboard not less than 2½ x 4½ inches in size in substantially the following form:

UNITED STATES CUSTOMS

IN-TRANSIT BAGGAGE MANIFEST

Carrier's Baggageman:	Destroy this tag if owner has access to baggage before its return to United States.

Check No. _____
This baggage is in transit from _____
_____
(Port of exit)
through foreign territory to _____
_____
(Port of reentry)
in the United States.
This baggage was laden for transportation as above stated.
Date _____

_____
(U.S. Customs Officer)

[1] For procedure as to merchandise subject to quarantine, disinfection, and special inspection, if not forwarded in bond, see Part 12 of this chapter.

For baggage to be transported via a Canadian port or through Canadian territory, a joint United States-Canada in-transit baggage card (United States customs Form 7524, Canada customs Form A–21) shall be used as the special manifest.

(b) The removal of the special tag manifest described in paragraph (a) of this section may be done only by a customs officer. The tag manifest shall be removed by the customs officer at the final port of re-entry into the United States. If the officer finds the special tag manifest missing or not intact or for any other reason believes that the baggage has been tampered with while outside the United States, he shall detain it for examination. Otherwise, it may be passed without examination.

(c) In lieu of attaching a special in-transit manifest to each piece as set forth in paragraph (a) of this section, the baggage may be forwarded in a car or compartment sealed with in-transit seals in harmony with § 5.8(g) of this chapter and manifested as in the case of other merchandise in transit through foreign territory.

(d) Except as otherwise provided for in paragraph (e) of this sction the provisions of this section shall not apply to domestic hand baggage crossing foreign territory which, upon reentry into the United States, shall be examined in the same manner as baggage of foreign origin.

(e) If a commercial traveler arriving at a United States frontier port with his samples wishes to carry them in his own automobile through Canada to another place in the United States without displaying them in Canada and the outer containers of the samples may be readily and effectively corded and sealed, the containers may be corded and sealed with yellow automatic metal intransit seals by a United States customs officer upon compliance with the following conditions. The traveler shall furnish a list, in duplicate, of all the articles in the containers with the approximate values of the articles shown. The customs officer shall check the list with the articles and satisfy himself that the values shown for the articles appear to be approximately correct. The original of the list, signed by the customs officer over his title and showing that the articles on the list have been checked by the officer against those in the containers, shall be returned to the traveler for submission by him to the Canadian customs upon his arrival in Canada. The traveler shall also be required to execute and file customs Form 7533–B, in original only, at the port of his departure from the United States, as an intransit manifest covering the movement of the samples to the United States port through which the traveler will return to this country. After this form has been signed and dated by the customs officer, it shall be returned to the traveler for submission by him to the collector of customs at the United States port where the samples are returned to this country. In preparing customs Form 7533–B for commercial travelers' samples, descriptions and quantities may be shown thereon by merely noting "Commercial Samples" and the number of the corded and sealed containers. The traveler may be required to assist the customs officer in the cording and sealing.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

WAREHOUSE AND REWAREHOUSE WITHDRAWALS FOR TRANSPORTATION

§ 18.16 Form of withdrawal; time.

(a) Merchandise may be withdrawn from warehouse for transportation to another port of entry if withdrawal for consumption or exportation can be accomplished at the port of destination before the expiration of the warehousing period, including any lawful extension thereof. The withdrawal document in such a case shall be executed on customs Form 7512, seven copies of which shall be required at the port of origin. However, the collector at such port may require an extra copy or copies to be furnished for use in connection with the delivery of the merchandise to the bonded carrier named in the withdrawal document. In the case of alcoholic beverages, two extra copies will be required for use in furnishing the duty statement to the collector at destination. A person in whom the right to withdraw the merchandise to be so transported has not previously been vested in accordance with § 8.39 of the chapter may make such withdrawal by (1) depositing a withdrawal for transportation on which is endorsed an assent to the withdrawal by the person in whom the right of withdrawal is then vested and (2) filing with such endorsed withdrawal the bond provided for in § 8.39 (a) of this chapter.

(b) All withdrawals for transportation shall show the original warehouse entry number, date of entry, and the port at which filed, and shall name a consignee at the port of destination or exportation. When the withdrawal is made from a rewarehouse entry, the number and date of the rewarehouse entry, as well as the number and date of the original warehouse entry and the port at which the original warehouse entry was filed, shall be shown on such withdrawal. Each withdrawal for transportation shall contain the statement prescribed for withdrawals in § 8.37 (b) of this chapter.

(Sec. 557, 46 Stat. 744, as amended: 19 U. S. C. 1557)

§ 18.17 Withdrawal procedure.

(a) Merchandise may be withdrawn for transportation prior to liquidation of the warehouse entry. In such cases the transportation entry, customs Form 7512, shall show any ascertained weight, gauge, or measure, the entered value of the particular merchandise covered by the withdrawal, and the estimated duty.

(b) All or any part of the merchandise covered by a warehouse entry may be withdrawn for transportation without deposit in a bonded warehouse and before liquidation, and may be permitted to remain on the vessel or other vehicle or on the pier in a constructive warehouse status pending examination and appraisement. When any such merchandise not deposited in warehouse is not forwarded under the withdrawal for transportation on account of damage or other cause, the importer shall be required to withdraw such merchandise immediately for consumption or exportation, or designate a warehouse to which it may be sent, and, upon his failure to do so, it shall be treated as unclaimed.

(c) The duty on any samples withdrawn at the original port from a shipment covered by a withdrawal for transportation shall be collected at such port and a notation thereof made on the transportation entry. No separate invoice or extract from the original invoice shall be required to cover such samples.

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

§ 18.18 Forwarding procedure; procedure at destination.

(a) The merchandise shall be forwarded in accordance with the general provisions for transportation in bond §§ 18.1–18.8.

(b) On arrival at destination, the merchandise may be entered for rewarehouse in accordance with §§ 8.33 and 8.34 of this chapter; for rewarehouse and withdrawal for consumption in accordance with § 8.35 of this chapter; or for exportation in accordance with § 8.36 of this chapter; or may be diverted to another port or returned to the port of origin in accordance with § 18.5 (c) and (d).

(c) The liquidation of the original warehouse entry shall be followed except in cases provided for in § 16.3 (c) or 16.10 (h) of this chapter in cases involving shortage, irregular delivery, or nondelivery under the warehouse withdrawal for transportation, and in cases where the collector at destination is of the opinion that circumstances make it inadvisable to follow such liquidation. When the merchandise has been withdrawn for consumption prior to the receipt of the notice of liquidation from the original port, differences of less than $3 between the estimated duty collected and the liquidated duty shall be disregarded. This procedure is likewise applicable to internal-revenue taxes.

(Sec. 7, 52 Stat. 1081, as amended, sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1321, 1557)

WAREHOUSE WITHDRAWALS FOR EXPORTATION OR FOR TRANSPORTATION AND EXPORTATION

§ 18.19 Procedure.

(a) *Direct exportation.* When merchandise is withdrawn from warehouse for direct exportation without transportation in bond to another port, an entry and manifest, Customs Form 7512, shall be filed in quintuple. However, the collector may require an extra copy or copies to be furnished for use in connection with the delivery of the merchandise to the carrier named in the withdrawal document.

(b) *Indirect exportation.* (1) When merchandise is withdrawn from warehouse for transportation and exportation, seven copies of Customs Form 7512 shall be required at the port of withdrawal. However, the collector may re-

quire an extra copy or copies to be furnished for use in connection with the delivery of the merchandise to the bonded carrier named in the withdrawal document.

(2) The merchandise shall be forwarded in accordance with the general provisions for transportation in bond, §§ 18.1–18.8.

(3) If any part of a shipment is not exported or when a shipment is divided at the port of exportation, extracts in duplicate from the manifest on file in the customhouse shall be made on Customs Form 7512 for each part, one copy to be sent to the discharging inspector and the other to the lading inspector to be used as a report of exportation. The splitting up for exportation of shipments arriving under warehouse withdrawals for transportation and exportation shall be permitted only when various portions of a shipment are destined to different destinations, when the export vessel cannot properly accommodate the entire quantity, or in other similar circumstances. The provisions of §§ 18.23 and 18.24 shall also be followed in applicable cases.

(c) *Withdrawal statement required.* Each withdrawal for exportation or withdrawal for transportation and exportation shall contain the summary statement prescribed for withdrawals in § 8.37 (b) of this chapter.

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

MERCHANDISE IN TRANSIT THROUGH THE UNITED STATES TO FOREIGN COUNTRIES

§ 18.20 Entry procedure; forwarding.

(a) When an importation is entered for transportation through the United States and exportation to a foreign country,[8] except as provided for in § 5.11 of this chapter (relating to merchandise in transit through the United States between two points in contiguous foreign territory), six copies of Customs Form 7512 shall be required. However, the collector may require an extra copy or copies to be furnished for use in connection with the delivery of the merchandise to the bonded common carrier or other carrier named in the entry.

(b) In places where no bonded common-carrier facilities are reasonably available and merchandise is permitted to be transported otherwise than by a bonded common carrier, the collecter may permit entry in accordance with the procedure outlined in paragraph (a) of this section, if he is satisfied that the revenue will not be endangered thereby. The entries in such cases shall be under a separate series of numbers. A bond on customs Form 7557 in an amount equal to double the estimated duty shall be required when the collector deems such action necessary for the protection of the revenue. (See § 25.15 of this chapter for cancellation of export bonds.)

(c) The merchandise shall be forwarded in accordance with the general provisions for transportation in bond, §§ 18.1–18.8. If the merchandise is not forwarded within 30 days from the date the entry is filed, the entry shall be canceled and the merchandise treated as unclaimed as of the date of original arrival.

(Sec. 553, 46 Stat. 742, as amended; 19 U. S. C. 1553)

§ 18.21 Restricted and prohibited merchandise.

(a) Merchandise subject upon importation to examination, disinfection, or further treatment under quarantines and Quarantine Division, Agricultural Research Service, Department of Agriculture, shall be released for transportation or exportation only upon written permission of, or under regulations issued by, that Bureau. (See §§ 12.10 to 12.15 of this chapter.)

(b) Narcotics and other articles prohibited admission into the commerce of the United States shall not be entered for transportation and exportation and any such merchandise offered for entry for that purpose shall be seized, except that exportation or transportation and exportation may be permitted upon written authority from the proper governmental agency and on compliance with the regulations of such agency.

(c) Articles in transit manifested merely as drugs, medicines, or chemicals, without evidence to satisfy the collector that they are non-narcotic, shall be detained and subjected, at the carrier's risk and expense, to such examination as may be necessary to satisfy the collector whether or not they are of a narcotic character. A properly verified certificate of the shipper, specifying the items in the shipment and stating whether narcotic or not, may be accepted by the collector to establish the character of such a shipment.

(Sec. 553, 46 Stat. 742, as amended; 19 U. S. C. 1553)

§ 18.22 Procedure at port of exit.

(a) If transfer is necessary, the procedure shall be as prescribed in § 18.3(d).

(b) Upon the arrival at the port of exit of express shipments of articles shown by the manifest, customs Form 7512, to be baggage and to be deliverable to the owner on board the exporting vessel, such articles may be transferred by the express company, without a permit from the collector and without the use of a transfer ticket or other customs formality, from its terminal to the exporting vessel for lading under customs supervision, if the express company is bonded as a common carrier and is responsible under its bond for the delivery of the articles to the customs officer in charge of the exporting vessel. The manifest shall show the name of the owner of the baggage and the name of the vessel on which he intends to sail.

(Sec. 553, 46 Stat. 742, as amended; 19 U. S. C. 1553)

§ 18.23 Change of destination; change of entry.

(a) The foreign destination of such merchandise may be changed by the parties in interest upon notice to the collector at the port of exit from the United States. The collector at the port of exit, in his discretion, may report the application for a change of foreign destination to the collector at the port of entry.

(b) Such merchandise may be entered for consumption or warehouse or under any other form of entry. If the merchandise is subject on importation to quarantine and regulations administered by the Bureau of Entomology and Plant Quarantine, it shall be entered for consumption or warehouse only upon written permission of, or under regulations issued by, that Bureau. (See §§ 12.10 to 12.15 of this chapter.)

(Sec. 553, 46 Stat. 742, as amended; 19 U. S. C. 1553)

§ 18.24 Retention of goods on dock; splitting of shipments.

Upon written application of a party in interest and the written consent of the owner of the dock, the collector, in his discretion, may allow in-transit merchandise to remain on the dock under the supervision of a customs officer without extra expense to the Government for any period not exceeding 90 days. Upon further application, additional extensions of 90 days or less, but not to exceed 1 year from the date of importation, may likewise be granted by the collector.[9] The splitting up of shipments for exportation shall be permitted only when the exportation of a shipment in its entirety is not possible by reason of the different destinations to which portions of the shipment are destined, when the exporting vessel cannot properly accommodate the entire quantity, or in other similar circumstances. The collector may take possession of the merchandise at any time.

(Sec. 553, 46 Stat. 742, as amended; 19 U. S. C. 1553)

---

[8] "Any merchandise, other than explosives and merchandise the importation of which is prohibited, shown by the manifest, bill of lading, shipping receipt, or other document to be destined to a foreign country, may be entered for transportation in bond through the United States by a bonded carrier without appraisement or the payment of duties and exported under such regulations as the Secretary of the Treasury shall prescribe, and any baggage or personal effects not containing merchandise the importation of which is prohibited arriving in the United States destined to a foreign country may, upon the request of the owner or carrier having the same in possession for transportation, be entered for transportation in bond through the United States by a bonded carrier without appraisement or the payment of duty, under such regulations as the Secretary of the Treasury may prescribe. In places where no bonded common-carrier facilities are reasonably available, such merchandise may be so transported otherwise than by a bonded common carrier under such regulations as the Secretary of the Treasury shall prescribe." (Tariff Act of 1930, sec. 553, as amended; 19 U. S. C. 1553)

[9] "Any entered or unentered merchandise (except merchandise entered under section 557 of this Act, but including merchandise entered for transportation in bond or for exportation) which shall remain in customs custody for one year from the date of importation thereof, without all estimated duties and storage or other charges thereon having been paid, shall be considered unclaimed and abandoned to the Government * * *." (Tariff Act of 1930, sec. 491, as amended; 19 U. S. C. 1491)

EXPORTATION [10] FROM CUSTOMS CUSTODY OF MERCHANDISE UNENTERED OR COVERED BY AN UNLIQUIDATED CONSUMPTION ENTRY, OR MERCHANDISE DENIED ADMISSION BY THE GOVERNMENT

§ 18.25 Direct exportation.

(a) Except as otherwise provided for in § 9.11(a) of this chapter, relating to exportation by mail, when no entry has been made or completed for merchandise in customs custody, or when the merchandise is covered by an unliquidated consumption entry, or when merchandise which has been entered in good faith is found to be prohibited under any law of the United States, and such merchandise is to be exported directly without transportation to another port, an entry on customs Form 7512 shall be filed in quadruplicate. However, the collector may require an extra copy or copies to be furnished for use in connection with the delivery of the merchandise to the carrier named in the entry.

(b) An exportation bond on customs Form 7557, 7559, or other appropriate form shall be required with the entry, provided a consumption entry bond on customs Form 7551 or 7553 or other appropriate form was not previously given. (See also § 8.49 of this chapter.)

(c) If the merchandise has been landed or is transferred from one vessel to another and has not been entered for consumption or, in the case of goods entered for consumption and rejected, if the statistical copy of the consumption entry has not been sent to the New York Office, Foreign Trade Division, Bureau of the Census, customs Form 7513 shall be used as the export declaration.

(d) If the merchandise is exported in the importing vessel without landing, a representative of the exporting carrier who has knowledge of the facts shall certify that the merchandise entered for exportation was not discharged during the carrier's stay in port. A charge shall be made against the vessel term bond, customs Form 7569, if on file, or a vessel bond on customs Form 7567 shall be given as in the case of residue cargo for foreign ports.

(e) Gunpowder and other explosive substances, the deposit of which in any public store or bonded warehouse is prohibited by law, may be entered on arrival from a foreign port for immediate exportation in bond by sea, but shall be transferred directly from the importing to the exporting vessel.

§ 18.26 Indirect exportation.

(a) When merchandise of the character enumerated in § 18.25(a) is to be transported in bond to another port for exportation, it may be entered for transportation and exportation in accordance with the procedure in § 18.20. No bond on customs Form 7557 or 7559 shall be required as the carrier's bond is sufficient to insure the safekeeping of the merchandise pending its exportation. In the case of merchandise prohibited entry by any Government agency, that fact shall be prominently noted on customs Form 7512 for the information of the collector at the port of exportation.

(b) The merchandise shall be forwarded in accordance with the general provisions for transportation in bond, §§ 18.1–18.8.

(c) If the merchandise is to be transferred after arrival at the selected port of exportation, the procedure prescribed in § 18.3 (d) shall be followed. The provisions of §§ 18.23 and 18.24 shall also be followed in applicable cases.

§ 18.27 Port marks.

Port marks may be added by authority of the collector and under the supervision of a customs officer. The original marks and the port marks shall appear in all papers pertaining to the exportation.

FINAL PORT OF EXPORTATION OF MERCHANDISE CROSSING CONTIGUOUS FOREIGN TERRITORY

§ 18.28 Port of exportation; cancellation of charge against bond.

Merchandise which leaves the United States at one frontier port, crosses contiguous foreign territory, and reenters the United States at another frontier port before final exportation to a contiguous country shall be treated as exported when it has passed through the last frontier port. This section shall control whether or not the merchandise to be exported is domestic or foreign and whether or not it is exported with benefit of drawback. The manifest, shipper's export declaration, and the notice of intent, if any, shall be filed at the last port of exit from the United States.

MERCHANDISE ARRIVING FROM A CONTIGUOUS COUNTRY IN SEALED VESSELS OR VEHICLES

§ 18.29 Sealed shipment authorized.

(a) Except to the extent that it is modified by §§ 18.30 and 18.31, the procedure in connection with merchandise arriving from a contiguous country in sealed vessels or vehicles under the provision of section 463, Tariff Act of 1930,[11] shall be the same as that applicable to similar classes of shipments entered at the port of first arrival for transportation in bond.

(b) Plants and plant products, unless specifically exempted from inspection by the Department of Agriculture, shall not be forwarded in sealed vessels or vehicles under the provisions of section 463 of the tariff act unless previously inspected and released by a representative of the Department of Agriculture. This restriction also applies to purebred animals for which free entry is to be claimed, which are required to be inspected at the border for identification purposes.

(Sec. 463, 46 Stat. 718; 19 U. S. C. 1463)

§ 18.30 Procedure; documents required.

(a) The master of the vessel or the person in charge of the vehicle shall present to the customs officer at the place of shipment a manifest on customs Form 7512, seven copies of which shall be required.

(b) The declaration of the "importer" on customs Form 7512 shall be executed by the shipper who shall sign it as shipper.

(c) Upon receipt of the manifest, the customs officer, after comparing the contents of the vessel or vehicle with the manifest, shall cause the said vessel or vehicle to be closed and sealed. The expense of sealing vessels and vehicles, exclusive of the compensation of the customs officer, shall be paid by the carrier.

(d) The customs officer shall deliver three copies of the manifest in a sealed envelope to the conductor or person in charge of the vessel or vehicle for transmittal to the collector of customs at the port of first arrival in the United States and shall deliver another copy to such conductor or person to accompany the shipment to destination.

(e) The carrier to whom the merchandise is released at the port of first arrival shall be bonded and the agent of such carrier shall execute the receipt on the collector's copy of the manifest.

(f) On arrival of the vessel or vehicle at the port of destination, the master of the vessel or person in charge of the vehicle shall deliver immediately the vessel or vehicle [12] and manifest covering the shipment to the collector of customs at the port.[13]

(Sec. 463, 46 Stat. 718; 19 U. S. C. 1463)

§ 18.31 Merchandise in less-than-carload lots.

Merchandise in less-than-carload lots originating at a point in a contiguous country at which there is a United States customs officer may be forwarded from

---

[10] "If any merchandise entered or withdrawn for exportation without payment of the duties thereon, or with intent to obtain a drawback of the duties paid, or of any other allowances given by law on the exportation thereof, is relanded at any place in the United States without entry therefor having been made, the same shall be considered and treated as having been imported into the United States contrary to law, and all persons concerned therein and such merchandise shall be liable to the same penalties as are prescribed by section 593 of this Act." (Tariff Act of 1930, sec. 589; 19 U. S. C. 1589)

[11] "To avoid unnecessary inspection of merchandise imported from a contiguous country at the first port of arrival, the master of the vessel or the person in charge of the vehicle in which such merchandise is imported may apply to the customs officer of the United States stationed in the place from which such merchandise is shipped, and such officer may seal such vessel or vehicle. Any vessel or vehicle so sealed may proceed with such merchandise to the port of destination under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, sec. 463; 19 U. S. C. 1463)

[12] "If the master of such vessel or the person in charge of any such vehicle fails to proceed with reasonable promptness to the port of destination and to deliver such vessel or vehicle to the proper officers of the customs, or fails to proceed in accordance with such regulations of the Secretary of the Treasury, or unlades such merchandise or any part thereof at other than such port of destination, or disposes of any such merchandise by sale or otherwise, he shall be guilty of a felony and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than five years, or both; and any such vessel or vehicle, with its contents, shall be subject to forfeiture." (Tariff Act of 1930, sec. 464; 19 U. S. C. 1464)

[13] See § 5.1 of this chapter and notes.

(Tariff Act of 1930, sec. 589; 19 U. S. C. 1589) the United States

that place under a manifest on customs Form 7512. The procedure to be followed shall be the same in all respects as that governing the forwarding of merchandise in sealed vessels or vehicles, except that the packages need not be sealed and the carrier shall furnish and attach to each package the warning labels required in the case of other bonded merchandise shipped in less-than-carload lots.

(Sec. 463, 46 Stat. 718; 19 U. S. C. 1463)

PART 19—CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE THEREIN

Sec.
19.1 Classes of customs warehouses.

GENERAL PROVISIONS

19.2 Application to bond; bond; renewal of.
19.3 Bonded warehouses; alterations; suspensions; discontinuance.
19.4 Offices; safety and sanitary requirements; supervision.
19.5 Customs warehouse officer; compensation of.
19.6 Permits; releases.
19.7 Expenses of labor and storage.
19.8 Examination of goods by importer; sampling; repacking; examination of merchandise by prospective purchasers.
19.9 Transfer to another warehouse.
19.10 Examination packages.

MANIPULATION IN BONDED WAREHOUSES AND ELSEWHERE

19.11 Manipulation in bonded warehouses and elsewhere.

ACCOUNTS

19.12 Certification of customs warehouse officer's reports.

MANUFACTURING WAREHOUSES

19.13 Requirements for establishment of warehouse.
19.14 Materials for use in manufacturing warehouse.
19.15 Withdrawal for exportation of articles manufactured in bond; waste or by-products for consumption.
19.16 Cigar-manufacturing warehouses.

SMELTING AND REFINING WAREHOUSES

Sec.
19.17 Application to establish warehouse; bond.
19.18 Smelting and refining; allowance for wastage; withdrawal for consumption.
19.19 Manufacturers' statements.
19.20 Withdrawal of products from bonded smelting or refining warehouses.
19.21 Smelting and refining in separate establishments.
19.22 Withdrawal of metal refined in part from imported crude metal and in part from crude metal produced from imported materials.
19.23 Withdrawal for exportation from one port to be credited on warehouse entry account at another port.
19.24 Theoretical transfer without physical shipment of dutiable metal.
19.25 Credit to be applied under various forms of withdrawals.

SPACE BONDED FOR THE STORAGE OF WHEAT

Sec.
19.29 Sealing of bins or other bonded space.
19.30 Domestic wheat not to be allowed in bonded space.
19.31 Bulk wheat of different classes and grades not to be commingled in storage.
19.32 Wheat manipulation; reconditioning.
19.33 General order; transportation in bond.
19.34 Customs supervision.

AUTHORITY: §§ 19.1 to 19.34 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 19.1 Classes of customs warehouses.

(a) Customs warehouses shall be designated according to the following classifications:

(1) *Class 1.* Premises owned or leased by the Government and used for the storage of merchandise undergoing examination by the appraiser, under seizure, or pending final release from customs custody.[1] Unclaimed merchandise stored in such premises shall be held under "general order."[2]

When such premises are not sufficient or available for the storage of seized and unclaimed goods, such goods may be stored in a warehouse of class 3, 4, or 5. So far as such warehouses are used for this purpose, they shall be designated "bonded stores." If there are no warehouses of these classes available, the collector may, with the approval of the Bu-

[1] "Any premises owned or leased by the Government and used for the storage of merchandise for the final release of which from customs custody a permit has not been issued shall be known as a 'public storage.'" (Tariff Act of 1930, sec. 561; 19 U. S. C. 1561)

[2] "The Secretary of the Treasury may cause to be set aside any available space in a building used as a customhouse for the storage of bonded merchandise or may lease premises for the storage of unclaimed merchandise or other imported merchandise required to be stored by the Government, and set aside a portion of such leased premises for the storage of bonded merchandise: *Provided*, That no part of any premises owned or leased by the Government may be used for the storage of bonded merchandise at any port at which a public bonded warehouse has been established and is in operation. All the premises so leased shall be leased on public account and the storage and other charges

reau, rent suitable premises for the storage of seized and unclaimed goods.[3]

(2) *Class 2.* Importers' private bonded warehouses used exclusively for the storage of merchandise belonging or consigned to the proprietor thereof. A warehouse of class 4 or 5 may be bonded exclusively for the storage of goods imported by the proprietor thereof, in which case it shall be known as a private bonded warehouse.

(3) *Class 3.* Public bonded warehouses used exclusively for the storage of imported merchandise.

(4) *Class 4.* Bonded yards or sheds for the storage of heavy and bulky imported merchandise; stables, feeding pens, corrals, or other similar buildings or limited enclosures for the storage of imported animals; and tanks for the storage of imported liquid merchandise in bulk. If the collector deems it necessary, the yards shall be enclosed by substantial fences with entrance and exit gates capable of being secured by customs locks. The inlets and outlets to tanks shall be secured by means of seals or customs locks in combination with steel chains.

(5) *Class 5.* Bonded bins or parts of buildings or of elevators to be used for the storage of grain. The bonded portions shall be effectively separated from the rest of the building.

(6) *Class 6.* Warehouses for the manufacture in bond, solely for exportation, of articles made in whole or in part of imported materials or of materials subject to internal-revenue tax; and for the manufacture for home consumption or exportation of cigars in whole of tobacco imported from one country.[4]

(7) *Class 7.* Warehouses bonded for smelting and refining imported metal-bearing materials for exportation or domestic consumption.[5]

(8) *Class 8.* Bonded warehouses established for the purpose of cleaning, sorting, repacking, or otherwise changing in condition, but not manufacturing, imported merchandise, under customs supervision and at the expense of the proprietor.[6]

---

shall be deposited and accounted for as customs receipts, and the rates therefor shall not be less than the charges for storage and similar services made at such port of entry by commercial concerns for the storage and handling of merchandise. No collector or other officer of the customs shall own, in whole or in part, any bonded warehouse or enter into any contract or agreement for the lease or use of any building to be thereafter erected as a public store or warehouse. No lease of any building to be so used shall be taken for a longer period than three years, nor shall rent for any such premises be paid, in whole or in part, in advance." (Tariff Act of 1930, sec. 560; 19 U. S. C. 1560)

[3] "Buildings or parts of buildings and other inclosures may be designated by the Secretary of the Treasury [Commissioner of Customs] as bonded warehouses for the storage of imported merchandise entered for warehousing, or taken possession of by the collector, or under seizure, or for the manufacture of merchandise in bond, or for the repacking, sorting, or cleaning of imported merchandise. Such warehouses may be bonded for the storing of such merchandise only as shall belong or be consigned to the owners or proprietors thereof and be known as private bonded warehouses, or for the storage of imported merchandise generally and be known as public bonded warehouses. * * *" (Tariff Act of 1930, sec. 555; 19 U. S. C. 1555)

[4] "All articles manufactured in whole or in part of imported materials, or of materials subject to internal-revenue tax, and intended for exportation without being charged with duty, and without having an internal-revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses, class six: *Provided*, That the manufacturer of such articles shall first give satisfactory bonds for the faithful observance of all the provisions of law and of such regulations as shall be prescribed by the Secretary of the Treasury: *Provided, further*, That the manufacture of distilled spirits from grain, starch, molasses, or sugar, including all dilutions or mixtures of them or either of them shall not be permitted in such manufacturing warehouses.

"Whenever goods manufactured in any bonded warehouse established under the provisions of the preceding paragraph shall be duly laden for transportation and immediate exportation under the supervision of the proper officer who shall be duly designated for that purpose, such goods shall be exempt from duty and from the requirements relating to revenue stamps.

"No flour, manufactured in a bonded manufacturing warehouse from wheat imported after ninety days from the date of the enactment of this Act shall be withdrawn from such warehouse for exportation without payment of a duty on such imported wheat equal to any reduction in duty which by treaty will apply in respect of such flour in the country to which it is to be exported.

"Any materials used in the manufacture of such goods, and any packages, coverings, vessels, brands, and labels used in putting up the same may, under the regulations of the Secretary of the Treasury, be conveyed without the payment of revenue tax or duty into any bonded manufacturing warehouse, and imported goods may, under the aforesaid regulations, be transferred without the exaction of duty from any bonded warehouse into any bonded manufacturing warehouse; but this privilege shall not be held to apply to implements, machinery, or apparatus to be

(Footnote 4—Continued)

used in the construction or repair of any bonded manufacturing warehouse or for the prosecution of the business carried on therein.

"Articles or materials received into such bonded manufacturing warehouse or articles manufactured therefrom may be withdrawn or removed therefrom for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the collector of the port, who shall certify to such shipment and exportation, or ladening for transportation, as the case may be, describing the articles by their mark or otherwise, the quantity, the date of exportation, and the name of the vessel: *Provided*, That the by-products incident to the processes of manufacture, including waste derived from cleaning rice in bonded warehouses under the Act of March 24, 1874, in said bonded warehouses may be withdrawn for domestic consumption on the payment of duty equal to the duty which would be assessed and collected by law if such waste or by-products were imported from a foreign country: *Provided*, That all waste material may be destroyed under Government supervision. All labor performed and services rendered under these provisions shall be under the supervision of a duly designated officer of the customs and at the expense of the manufacturer.

"A careful account shall be kept by the collector of all merchandise delivered by him to any bonded manufacturing warehouse, and a sworn monthly return, verified by the customs officers in charge, shall be made by the manufacturer containing a detailed statement of all imported merchandise used by him in the manufacture of exported articles.

"Before commencing business the proprietor of any manufacturing warehouse shall file with the Secretary of the Treasury a list of all the articles intended to be manufactured in such warehouse, and state the formula of manufacture and the names and quantities of the ingredients to be used therein.

"Articles manufactured under these provisions may be withdrawn under such regulations as the Secretary of the Treasury may prescribe for transportation and delivery into any bonded warehouse at an exterior port for the sole purpose of immediate export therefrom: *Provided*, That cigars manufactured in whole of tobacco imported from any one country, made and manufactured in such bonded manufacturing warehouses, may be withdrawn for home consumption upon the payment of the duties on such tobacco in its condition as imported under such regulations as the Secretary of the Treasury may prescribe and the payment of the internal-revenue tax accruing on such cigars in their condition as withdrawn, and the boxes or packages containing such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture.

"The provisions of section 3433 of the Revised Statutes shall, so far as may be practicable, apply to any bonded manufacturing warehouse established under this Act and to the merchandise conveyed therein.

"Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class six, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of this section, and may be withdrawn as hereinbefore provided, and likewise for shipment in bond to Puerto Rico, subject to the provisions of this section, and under such regulations as the Secretary of the Treasury may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: *Provided*, That upon withdrawal in Puerto Rico for consumption, the duties imposed by the customs laws of the United States shall be collected on all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines in such warehouses: *Provided further*, That no internal-revenue tax shall be imposed on distilled spirits and wines rectified in class six warehouses if such distilled spirits and wines are exported or shipped in accordance with the provisions of this section, and that no person rectifying distilled spirits or wines in such warehouses shall be subject by reason of such rectification to the payment of special tax as a rectifier." (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

[5] "(a) Any plant engaged in smelting or refining, or both, of metal-bearing materials as defined in this section may, upon the giving of satisfactory bond, be designated a bonded smelting or refining warehouse. * * *" (Tariff Act of 1930, sec. 312, as amended; 19 U.S.C. 1312.)

[6] "Unless by special authority of the Secretary of the Treasury, no merchandise shall be withdrawn from bonded warehouse in less quantity than an entire bale, cask, box, or other package; or, if in bulk, in the entire

(b) The whole or a part of any warehouse of class 1, 2, 3, 4, 5, 6, or 7 may be designated a constructive manipulation (class 8) warehouse when the exigencies of the service so require.

(c) When parts of buildings are used as customs bonded warehouses, the bonded and nonbonded portions thereof shall be effectively separated by partitions of substantial materials and construction erected in such a manner as to render it impossible to enter the premises in the absence of the customs warehouse officer without such violence as to make the entry easy of detection. So-called poultry wire, wood lattice or palings, plasterboard, beaverboard, or other materials of a light or flimsy nature, or materials of a substantial nature but which are insecurely installed are not acceptable for use as partitions. Where partitions consist of wire mesh or expanded metal panels, the wire shall be not less than No. 6 gauge (of a diameter of .192 inch) or equivalent cross sectional area with mesh openings not to exceed 2 inches in the larger dimension, and with the panel material riveted or welded into channel-iron or T-iron frames or secured with through hairpin bolts to 2 x 4 inch wood stud partition framing. Wood partitions shall be constructed of not less than 1-inch boards (dressed if desired) of uniform length between supports, nailed with not less than ten penny nails to not less than 2 x 4 inch stud framing and for additional security held in place by ⅛ x 1 inch metal cover-strips secured crosswise of the boards, preferably over the nailed ends, with carriage bolts through the boards and partition framing.

(Secs. 311, 312, 555, 556, 557, 560, 561, 562, 46 Stat. 691, as amended, 692, as amended, 743, 744, as amended, 745, as amended; 19 U.S.C. 1311, 1312, 1555, 1556, 1557, 1560, 1561, 1562)

General Provisions

§ 19.2 Application to bond; bond; renewal of.

(a) An owner or lessee desiring to establish a bonded warehouse shall make written application to the collector, describing the premises, giving their location, and stating the class of warehouse and shall transmit therewith the fee of $65 prescribed by § 24.12 of this chapter. Except in the case of a class 2 or class 7 warehouse, the application shall state whether the warehouse is to be operated only for the storage or treatment of merchandise belonging to the applicant or whether it is to be operated as a public bonded warehouse. If the warehouse is to be operated as a private bonded warehouse, the application shall also state the general character of the merchandise to be stored therein, with an estimate of the maximum duties and taxes which will be due on such merchandise at any one time.[7] All storage warehouses operated by one proprietor in the same customs district may be included in one bond.

(b) The application shall be accompanied by a certificate signed by the president or secretary of a board of fire underwriters, and at ports where no such board exists by an officer or agent of each of two or more insurance companies, stating that the building is a suitable warehouse and acceptable for fire-insurance purposes. The application shall also be accompanied by a blueprint showing measurements, openings, etc., of the building or space to be bonded. If the warehouse to be bonded is a tank, the blueprint shall show all outlets, inlets, and pipe lines and shall be certified as correct by the proprietor of the tank. A gauge table showing the capacity of the tank in United States gallons per inch or fraction of an inch of height, certified by the proprietor to be correct, shall accompany the application. When a part or parts of a building are to be used as the warehouse, there shall be given a detailed description of the materials and construction of all partitions. When the proprietor is the lessee of the premises covered by the application and bond, he shall furnish a stipulation concurred in by the sureties, agreeing that, prior to the expiration of the lease covering the premises without renewal thereof, he will (1) transfer any merchandise remaining in the bonded warehouse to an approved bonded warehouse, (2) pay all duties, charges, or exactions due on such merchandise, or (3) otherwise dispose of such merchandise in accordance with the customs laws and regulations.

(c) On approval of the application to bond a warehouse of class 2, 3, 4, 5, or 8, a bond shall be executed on customs Form 3581.[8]

(d) On approval of the application to bond a proprietor's manufacturing warehouse, class 6, a bond shall be executed in duplicate on customs Form 3583. In the case of a bonded smelting and refining warehouse, class 7, the bond shall be executed with the required number of copies and in the form prescribed in T. D. 50267, as amended by T. D. 52403. All documents referred to in paragraph (b) of this section as may relate to proprietor's warehouse bonds, class 6 or 7, shall be submitted in duplicate.

(e) Any proprietor of a bonded warehouse may be required on 10 days' notice from the collector to furnish a new proprietor's warehouse bond; and if he fails to do so, no more goods shall be sent to the warehouse and those therein shall be removed at the expense of such proprietor. A new bond is required if the bonded warehouse is substantially altered or rebuilt.

(Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556)

§ 19.3 Bonded warehouses; alterations; suspensions; discontinuance.

(a) Alterations in bonded warehouses, class 6 or 7, may be made by permission of the collector, unless they constitute a material change in the premises, in which case the approval of the Bureau is required. All alterations to warehouses of class 2, 3, 4, 5, or 8, or combinations thereof, may be made by permission of the collector without approval of the Bureau.

(b) The use of all or part of a bonded warehouse or bonded floor or space may be temporarily suspended by the collector on written application of the proprietor if there are no bonded goods in the area concerned. Upon the removal of all free goods, if any, the premises may again be used for the storage of bonded goods upon written application of the proprietor. In each case the collector of customs shall indicate his action by endorsement on the application. Rebonding will not be necessary.

(c) The Bureau may discontinue the bonded status of a warehouse at any

---

quantity imported or in a quantity not less than one ton weight. All merchandise so withdrawn shall be withdrawn in the original packages in which imported unless, upon the application of the importer, it appears to the collector that it is necessary to the safety or preservation of the merchandise to repack or transfer the same: *Provided*, That upon permission therefor being granted by the Secretary of the Treasury, and under customs supervision, at the expense of the proprietor, merchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom for exportation to a foreign country or for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, without payment of the duties, or for consumption, upon payment of the duties accruing thereon, in its condition and quantity, and at its weight, at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in condition. The basis for the assessment of duties on such merchandise so withdrawn for consumption shall be the adjusted final appraised value, and if the rate of duty is based upon or regulated in any manner by the value of the merchandise, such rate shall be based upon or regulated by such adjusted final appraised value. The scouring or carbonizing of wool shall not be considered a process of manufacture within the provisions of this section. Under such regulations as the Secretary of the Treasury shall prescribe imported merchandise which has been entered and which has remained in continuous customs custody may be manipulated in accordance with the provisions of this section under customs supervision and at the risk and expense of the consignee, but elsewhere than in a bonded warehouse, in cases where neither the protection of the revenue nor the proper conduct of customs business requires that such manipulation be done in a bonded warehouse." (Tariff Act of 1930, sec. 562, as amended; 19 U. S. C. 1562)

[7] "If any merchandise is fraudulently concealed in, removed from, or repacked in any bonded warehouse, or if any marks or numbers placed upon packages deposited in such a warehouse be fraudulently altered, defaced, or obliterated, such merchandise and packages shall be subject to forfeiture, and all persons convicted of the fraudulent concealment, repacking, or removal of such merchandise, or of altering, defacing, or obliterating such marks and numbers thereon, and all persons aiding and abetting therein shall be liable to the same penalties as are imposed by section 593 of this Act." (Tariff Act of 1930, sec. 597; 19 U. S. C. 1597)

[8] "* * * Before any imported merchandise not finally released from customs custody shall be stored in any such premises, the owner or lessee thereof shall give a bond in such sum and with such sureties as may be approved by the Secretary of the Treasury [Commissioner of Customs] to secure the Government against any loss or expense connected with or arising from the deposit, storage, or manipulation of merchandise in such warehouse. * * *" (Tariff Act of 1930, sec. 555; 19 U. S. C. 1555)

time for reasonable cause. The collector may take similar action in the case of a warehouse of class 2, 3, 4, 5, or 8. When the proprietor desires to discontinue the bonded status of his warehouse, he shall make written application therefor to the collector. If the application is approved by the collector, he shall require all goods in such warehouse upon which the duty has not been paid to be transferred to another bonded warehouse without expense to the Government. The number of warehouses covered by a general bond may be reduced by discontinuance without necessitating a new bond unless the proprietor so desires.

(Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556)

§ 19.4 Offices; safety and sanitary requirements; supervision.

(a) Suitable accommodations for the customs warehouse officer shall be provided by the proprietor of the warehouse. An office for the accommodation of the warehouseman may be allowed in the bonded premises if separated by a partition from the space used for the storage of bonded goods.

(b) Fires shall not be permitted in any warehouse, other than warehouses of classes 6, 7, and 8, except in the office of the customs warehouse officer and warehouseman. When lights are required, only safety lanterns or electric lights shall be used.

(c) All the doors and other entrances of bonded warehouses shall be secured by customs locks.

(d) In the case of merchandise subject to the Federal Food, Drug, and Cosmetic Act particular care shall be exercised by the warehouseman to keep the premises clean and free of rodents, insect infestation, trash, or other insanitary conditions.

(e) The character and extent of the customs supervision to be exercised in connection with any warehouse or transaction provided for in this part shall be in accordance with § 23.35 of this chapter.

(Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556)

§ 19.5 Customs warehouse officer; compensation of.

(a) The collector shall, when necessary, designate one or more employees to act as customs warehouse officers of each bonded warehouse or public store.[9]

(b) The charge to be made for the services of a customs warehouse officer or a customs employee temporarily assigned to act as a customs warehouse officer at a bonded warehouse on a regular workday during his basic 40-hour workweek shall be computed at a rate per hour equal to $\frac{1}{1704}$ of the annual rate of regular pay of the particular employee with an addition equal to any night pay differential actually payable under section 301 of the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 921). The charge to be made for the services of a customs warehouse officer or a customs employee temporarily assigned to act as a customs warehouse officer at a bonded warehouse on a holiday or outside his established basic workweek shall be the amount actually payable to the employee for such services under the Federal Employees Pay Act of 1945 as amended (5 U.S.C. 911, 922) or the customs overtime laws (19 U.S.C. 267, 1451), or both, as the case may be. The time charged shall include any time within the regular working hours of the employee required for travel between the duty assignment and the place where the employee is regularly employed, and shall be not less than one hour for each visit with time after the first hour, excluding lunch periods, charged in multiples of one hour, fractional parts of an hour of less than 30 minutes being disregarded and those of 30 minutes or more being charged as one hour. In no case shall the charge be less than one dollar.

(c) The necessary transportation expenses and any authorized per diem expenses of a customs employee assigned to perform services at a warehouse at which he is not regularly assigned shall be reimbursed by the warehouse proprietor.

(d) When a customs officer is regularly assigned to duty at more than one warehouse, the charge for his compensation and transportation expenses in going from one bonded warehouse to another shall be equitably apportioned among the respective warehouse proprietors concerned. However, no charge shall be made for transportation expenses when a customs employee is reporting to as a first assignment, or leaving from as a last assignment, a place where he is regularly assigned to duty.

(e) Upon the failure of the warehousemen to pay such charges when due, or to comply with the laws and regulations applicable to bonded warehouses, the collector shall refuse entry of merchandise for such warehouse and report the facts to the Bureau.

(Secs. 201, 301, 302, 604, 59 Stat. 296, 298, as amended, 303, 304, as amended, sec. 603, 63 Stat. 965, as amended, secs. 203, 204, 65 Stat. 679, as amended, 681, sec. 5, 36 Stat. 901, as amended, secs. 451, 555, 556, 46 Stat. 715, as amended, 743; 5 U.S.C. 911, 921, 922, 944, 1113, 2062, 2063, 19 U.S.C. 267, 1451, 1555, 1556)

§ 19.6 Permits; releases.

(a) Upon the receipt of a permit signed by the collector, or other customs officer designated for such purpose, the customs warehouse officer shall release the merchandising covered thereby to the warehouse proprietor, unless the proprietor furnishes a delivery order authorizing release to some other person, in which case the merchandise shall be released to the person designated by the proprietor.[10] If the permit bears the endorsement provided for in § 8.38 of this chapter, release in accordance with the foregoing shall be withheld, subject to the provisions of § 20.3 (c) of this chapter, pending the lodging of an order to release on customs Form 7505–B.

(b) Before delivery is permitted, the permit shall be endorsed to show that storage, cartage, labor, and other charges due the Government have been paid.

(c) Merchandise covered by a notice of lien filed by the carrier shall not be released until the lien has been satisfied or discharged.[11]

(Secs. 484 (j), 555, 556, 46 Stat. 723, 743; 19 U.S.C. 1484(j), 1555, 1556)

§ 19.7 Expenses of labor and storage.

(a) All merchandise deposited in public stores or in bonded warehouses shall be held liable for the expenses of labor and storage chargeable thereon at the customary rates and for all other expenses accruing upon the goods.

(b) The rates of storage and labor shall be agreed upon between the importer and the warehouse proprietor, but in case of disagreement the collector may, with the consent of all parties in interest, determine the rates to be charged.

(c) Except in cases provided for by § 8.28 (c) of this chapter, when merchandise is stored in a public store under a warehouse entry, general order, or otherwise, the charges for storage due the Government shall be paid before the packages are delivered. The charges shall be based upon the existing bonded warehouse tariff of the port for storage and labor.

(Secs. 555, 556, 46 Stat. 743; 19 U. S. C. 1555, 1556)

§ 19.8 Examination of goods by importer; sampling; repacking; examination of merchandise by prospective purchasers.

Importers may, upon application approved by the collector on customs Form 3499 and under the supervision of the customs warehouse officer, examine, sample, and repack[12] or transfer merchandise in bonded warehouse. Where there will be no interference with the orderly conduct of customs business and no danger to the revenue, prospec-

---

[9] "* * * Except as otherwise provided in this Act, bonded warehouses shall be used solely for the storage of imported merchandise and shall be placed in charge of a proper officer of the customs, who, together with the proprietor thereof, shall have joint custody of all merchandise store in the warehouse; and all labor on the merchandise so stored shall be performed by the owner or proprietor of the warehouse, under supervision of the officer of the customs in charge of the same, at the expense of the owner or proprietor. The compensation of such officer of the customs and other customs employees appointed to supervise the receipt of merchandise into any such warehouse and deliveries therefrom shall be reimbursed to the Government by the proprietor of such warehouse." (Tariff Act of 1930, sec. 555; 19 U.S.C. 1555)

[10] "* * * merchandise in a bonded warehouse shall be released from customs custody only to or upon the order of the proprietor of the warehouse. * * *" (Tariff Act of 1930, sec. 484 (j); 19 U. S. C. 1484 (j))

The Government will not compel a warehouseman to deliver bonded goods as the interest of the Government is in the collection of the duty on the merchandise or its exportation, and any question of infringement of private rights by the warehouseman must be left to the parties in interest.

[11] Imported goods in bonded warehouse are exempt from taxation or judicial process of any State or subdivision thereof. (See T. D. 50200)

[12] Repacking shall be considered a manipulation within the purview of sec. 562, Tariff Act of 1930, as amended.

tive purchasers may be permitted to examine merchandise in bonded warehouses upon the written request of the owner, importer, consignee, or transferee.

(Secs. 555, 556, 562, 46 Stat. 743, 745, as amended; 19 U.S.C. 1555, 1556, 1562)

§ 19.9 Transfer to another warehouse.

(a) With the concurrence of the proprietors of the delivering and receiving warehouses, merchandise may be transferred under customs supervision and at the expense of the party requesting it from one bonded warehouse to another in the same port upon the written request of the importer or transferee to the collector, who shall issue an order for such transfer on customs Form 7500–A.[12]

(b) All charges shall be paid before goods are transferred from a warehouse of class 1.

(Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555. 1556)

§ 19.10 Examination packages.

Merchandise sent from a bonded warehouse to the appraiser's stores for examination shall be returned by the collector to the warehouse for delivery unless the warehouseman shall endorse on the duty-paid permit that the merchandise may be otherwise released.

(Secs. 555, 556, 46 Stat. 743; 19 U. S. C. 1555, 1556)

Manipulation in Bonded Warehouses and Elsewhere

§ 19.11 Manipulation in bonded warehouses and elsewhere.

(a) So far as applicable, the general provisions of the regulations governing warehouses bonded for the storage of imported merchandise shall apply to bonded manipulation warehouses and to other designated places of manipulation.[14]

(b) Merchandise to be manipulated under section 562, Tariff Act of 1930, as amended,[15] may be entered on customs Form 7502 and sent directly to a storage-manipulation warehouse.

(c) Merchandise entered for warehouse may be transferred to a storage-manipulation warehouse; or merchandise entered for storage-manipulation warehouse may be transferred after manipulation to the storage portion of the same warehouse, to another storage warehouse, or to a manufacturing warehouse of class 6.

(d) The application to manipulate, which shall be filed on customs Form 3499 with the collector having jurisdiction of the warehouse or other designated place of manipulation, shall describe the contemplated manipulation in sufficient detail to enable the collector to determine whether the imported merchandise is to be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, within the meaning of section 562, Tariff Act of 1930, as amended. If the collector is satisfied that the merchandise is to be so manipulated, he may issue a permit on customs Form 3499, making any necessary modification in such form. Manipulation resulting in a change in condition of the merchandise, which will make it subject to a lower rate of duty or free of duty upon withdrawal for consumption, is not precluded by the provisions of such section 562.

(e) No merchandise shall be manipulated elsewhere than in a bonded warehouse unless the merchandise has been regularly entered for consumption or warehouse and is of a class entitled to the warehousing privilege under section 557, Tariff Act of 1930, as amended.

(f) Upon compliance with the provisions of paragraph (d) of this section, manipulated merchandise may be further manipulated before withdrawal in cases where the collector is satisfied that this will not endanger the revenue or interfere with the efficient conduct of customs business. The merchandise remaining in the warehouse shall be properly repacked after each manipulation.

(g) Manipulated merchandise may be withdrawn under any form of withdrawal, but no withdrawal shall be accepted for less than an entire repacked package. Each type of withdrawal filed shall contain a summary statement indicating the quantity in the warehouse account after manipulation and immediately before the withdrawal, the quantity withdrawn on the particular withdrawal, and the quantity remaining in the warehouse after the withdrawal. When merchandise covered by a consumption entry is manipulated elsewhere than in a bonded warehouse and thereafter withdrawn for consumption, the withdrawal shall be on customs Form 7505 and shall be liquidated in accordance with § 16.2(e) of this chapter.

(Secs. 556, 562, 46 Stat. 743, 745, as amended; 19 U.S.C. 1556, 1562)

Accounts

§ 19.12 Certification of customs warehouse officer's reports.

Before transmittal to the collector, the customs warehouse officer's report of merchandise received, delivered, released, withdrawn, or transferred shall be certified by the proprietor of the warehouse to be correct.

(Sec. 556, 46 Stat. 743; 19 U.S.C. 1556)

Manufacturing Warehouses

§ 19.13 Requirements for establishment of warehouse.

(a) Buildings or parts of buildings and other enclosures may be designated as bonded manufacturing warehouses if the Bureau is satisfied that their location, construction, and arrangement afford adequate protection to the revenue.[16] Such warehouses shall be used solely and exclusively for the purpose for which they are bonded. The general provisions pertaining to warehouses for the storage of bonded merchandise shall, so far as relevant, apply to bonded manufacturing warehouses.

(b) Application for the establishment of such a warehouse shall be made to the collector of customs for the port where the premises are situated, setting forth the size, construction, and location of the premises, the manufacture proposed to be carried on, and the kinds of materials intended to be stored and used therein.

(c) The procedure outlined in § 19.2 with respect to the application to bond the premises and the execution of the bond shall be followed.

(d) A list of all articles intended to be manufactured in the warehouse shall be filed in duplicate with the collector of customs, who shall transmit one copy to the Bureau. Such list shall set forth the specific names under which the articles are to be exported and under which they will be known to the trade, and shall show the names of all the ingredients entering into the manufacture of such articles, with the quantities of such ingredients or materials as may be dutiable or taxable.[17]

---

[12] "* * * merchandise may be withdrawn, at any time within three years from the date of importation, * * * for transfer to another bonded warehouse at the same port: * * *." (Tariff Act of 1930, sec. 557 (a), as amended; 19 U. S. C. 1557 (a))

[14] "* * * Under such regulations as the Secretary of the Treasury shall prescribe, imported merchandise which has been entered and which has remained in continuous customs custody may be manipulated in accordance with the provisions of this section under customs supervision and at the risk and expense of the consignee, but elsewhere than in a bonded warehouse, in cases where neither the protection of the revenue nor the proper conduct of customs business requires that such manipulation be done in a bonded warehouse." (Tariff Act of 1930, sec. 562, as amended; 19 U. S. C. 1562)

[15] "* * * upon permission therefor being granted by the Secretary of the Treasury [Commissioner of Customs], and under customs supervision, at the expense of the proprietor, merchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom for exportation to a foreign country or for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, without payment of the duties, or for consumption, upon payment of the duties accruing thereon, in its condition and quantity, and at its weight, at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in conditions. * * *." (Tariff Act of 1930, sec. 562, as amended; 19 U.S.C. 1562)

[16] "All articles manufactured in whole or in part of imported materials, or of materials subject to internal-revenue tax, and intended for exportation without being charged with duty, and without having an internal-revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses, class six: *Provided*, That the manufacturer of such articles shall first give satisfactory bonds for the faithful observance of all the provisions of law and of such regulations as shall be prescribed by the Secretary of the Treasury: * * *." (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

[17] "* * * Before commencing business the proprietor of any manufacturing warehouse shall file with the Secretary of the Treasury [Commissioner of Customs] a list of all the articles intended to be manufactured in such warehouse, and state the formula of manufacture and the names and quantities of the ingredients to be used therein; * * *." (Tariff Act of 1930, sec. 311, as amended; 19 U.S.C. 1311)

(e) Proprietors of such warehouses are required to conform strictly to the formulas filed with the bond, or subsequently, and in no instance shall an article be permitted to be manufactured in or withdrawn from the warehouse which does not contain all the ingredients and in the quantities specified in the formula for the manufacture of such article, or which contains any ingredient not specified in the formula.

(f) Manufactured articles shall be marked with the trade name of the goods and may be marked, in addition, with the formulas and with such insignia or name as may be indicated or desired by the purchaser, if such additional marking will in no manner conflict with the requirements of the formula or present or create a false or misleading statement or impression.

(g) Each bonded manufacturing warehouse shall have a portion separated from the remainder of the premises and secured by customs locks to be used exclusively for the storage of all imported merchandise, domestic spirits, or other materials subject to internal-revenue tax transferred into such warehouse for manufacture. A like compartment shall be provided to be used exclusively for the storage of products manufactured in the warehouse. The premises shall be so secured as to prevent any person from having access thereto in the absence of the customs warehouse officer in charge, and the goods stored therein shall be so arranged as to give all practicable convenience to such officer in making the required examination or taking samples for analysis.

(Sec. 311, 46 Stat. 691, as amended; 19 U. S. C. 1311)

§ 19.14 Materials for use in manufacturing warehouse.

(a) Imported merchandise to be used in a bonded manufacturing warehouse shall be entered on customs Form 7521 at the port at which such warehouse is located. Such form shall be prepared in quintuple. If the merchandise is not to be taken immediately to the manufacturing warehouse, a warehouse or rewarehouse entry, as the case may be, shall be made and customs Form 7521 used as a combined withdrawal and entry for manufacturing warehouse. If the merchandise has been imported or entered for warehouse at another port, it may be forwarded to the port at which the manufacturing warehouse is located under an immediate transportation without appraisement entry or warehouse withdrawal for transportation, whichever is applicable.

(b) Before the transfer of the merchandise to the manufacturing warehouse is permitted, a bond on customs Form 7571 in an amount equal to double the estimated duties shall be required unless a general bond on customs Form 3583 has been given.

(c) When the proprietor of any bonded manufacturing warehouse desires to receive therein any domestic merchandise, except merchandise subject to internal-revenue tax, to be used in connection with the manufacture of articles permitted to be manufactured in such warehouse, including packages, coverings, vessels, and labels used in putting up such articles, an application shall be executed in duplicate in the following form, one copy to be filed with the collector and the other with the customs warehouse officer in charge of the warehouse:

APPLICATION TO RECEIVE FREE MATERIALS

Port of _____,
_____, 19___.

To the Collector of Customs:

Application is hereby made to receive into the bonded manufacturing warehouse known as _____, situated at _____, the following-described articles and materials:

Marks	Nos.	Description	Quantity	Value

_____
(Signature)

Port of _____, _____ 19____.
To the customs warehouse officer in charge of the bonded manufacturing warehouse specified above:

The above-described articles and materials are hereby permitted to be received into the warehouse in your charge, to be used therein in connection with the manufacture of articles as authorized by law.

_____
Collector

(d) For the transfer of domestic spirits from the bonded premises of a distilled spirits plant to a bonded manufacturing warehouse, or for the transfer of domestic wines from a bonded wine cellar to a bonded manufacturing warehouse, a bond on customs Form 7571 shall be required unless the warehouse is covered by a bond on customs Form 3583.

(Sec. 311, 46 Stat. 691, as amended; 19 U. S. C. 1311)

§ 19.15 Withdrawal for exportation of articles manufactured in bond; waste or byproducts for consumption.

(a) Except cigars manufactured in bond and supplies for vessels, no articles or materials received into a bonded manufacturing warehouse or articles manufactured therefrom shall be withdrawn or removed therefrom except for direct exportation or transportation and exportation in bond to a foreign country. The exportation or shipment shall in every case be under the supervision of a customs officer.[18]

(b) The coverings or containers of imported articles or materials, whether or not subject to duty apart from their contents, are not "articles or materials" within the meaning of section 311, Tariff Act of 1930, as amended, and need not be exported, but may be withdrawn from the warehouse for consumption under customs Form 7505 upon payment of the duties applicable to such coverings or containers in their condition as withdrawn.

(c) Labels, coverings, and empty containers imported to be used in putting up the manufactured articles, if subject to duty or tax, constitute "articles or materials" within the meaning of section 311, Tariff Act of 1930, as amended, but may be withdrawn for consumption upon payment of all applicable duties and taxes.

(d) When waste or a byproduct is withdrawn for consumption, customs Form 7505 shall be used, modified as necessary and describing in detail the waste or byproduct and the imported material from which it was produced. Such waste or byproduct shall be appraised at its wholesale value at the time of withdrawal in the principal markets of the country from which the material was imported, determined in accordance with the provisions of section 402, Tariff Act of 1930, as amended. Upon payment of the duty, the withdrawal permit shall be issued for delivery and a proper credit given upon the manufacturer's bond.

(e) Each withdrawal covering the items which are permitted to be withdrawn for consumption shall contain a summary statement thereon, showing for each class of merchandise the quantity on hand in the account, the quantity covered by the withdrawal presented, and the quantity remaining in the warehouse account, if any.

(f) The general procedure covering warehouse withdrawals for exportation shall be followed in the case of articles withdrawn for exportation from a bonded manufacturing warehouse, except that in the case of flour each copy of customs Form 7512 shall bear the following legend:

Produced from wheat imported after September 15, 1930, without payment of duty thereon. Must not be exported to Cuba without permission from the collector at the port of withdrawal.[19]

(g) Articles may be withdrawn for transportation and delivery to a bonded storage warehouse at an exterior port under the provisions of section 311, Tariff Act of 1930, as amended,[20] for the sole purpose of immediate export or may be withdrawn pursuant to section 309(a) of the tariff act, as amended. Such withdrawal shall be effected on customs

---

[18] "* * * Articles or materials received into such bonded manufacturing warehouse or articles manufactured therefrom may be withdrawn or removed therefrom for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the collector of the port, * * *." (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

[19] "* * * No flour, manufactured in a bonded manufacturing warehouse from wheat imported after ninety days after the date of the enactment of this Act, shall be withdrawn from such warehouse for exportation without payment of a duty on such imported wheat equal to any reduction in duty which by treaty will apply in respect to such flour in the country which it is to be exported. * * *" (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

[20] * * * Articles manufactured under these provisions may be withdrawn under such regulations as the Secretary of the Treasury may prescribe for transportation and delivery into any bonded warehouse at an exterior port for the sole purpose of immediate export therefrom: * * *." (Tariff Act of 1930, sec. 311, as amended; 19 U.S.C. 1311)

Form 7512 as provided for in § 18.16 of this chapter. A rewarehouse entry shall be made at the exterior port in accordance with § 8.33 of this chapter supported by a bond on custom Form 7555 in an amount equal to the aggregate sum of double the estimated amount of ordinary customs duties on the merchandise (including any taxes imposed thereon which are required by law to be treated as duty imposed by the Tariff Act of 1930), plus the estimated amount of any other tax or taxes on the merchandise collectible by the collector of customs. The recital clause of such bond shall be modified to show that the merchandise is the product of a bonded manufacturing warehouse, class 6, and that it has been rewarehoused at the exterior port for the sole purpose of immediate export or withdrawal pursuant to section 309(a) of the tariff act, as amended. The following new condition shall be added to the bond: "And if said articles shall be exported or withdrawn in accordance with the provisions of section 311 or 309(a), Tariff Act of 1930, as amended, in the manner prescribed by the regulations; or, in default thereof, if the obligors shall pay to the collector as liquidated damages an amount equal to the aggregate sum of double the duties assessable on such part of the shipment as shall not have been so exported or withdrawn, plus the amount of any internal-revenue tax assessable thereon".

(h) No merchandise manufactured in a bonded manufacturing warehouse may be withdrawn by a person other than the manufacturer either from the manufacturing warehouse or from a warehouse where the merchandise is stored awaiting direct exportation, unless an authorization of the manufacturer is endorsed on the face of the withdrawal, or the manufacturer previously and in writing has transferred the right of withdrawal.

(i) When spirits and wines are withdrawn for shipment to Puerto Rico under section 311, Tariff Act of 1930, as amended, the procedure outlined in § 7.1 of this chapter shall be followed.

(j) As proof of manufacture and exportation, the manufacturer shall file in the case of each transaction or period of manufacture a statement verified by the customs warehouse officer in charge of the warehouse, showing the date and number of the bond, the quantity and identity of the dutiable or taxable merchandise used, and the quantity and description of the articles into which it has been manufactured, together with the quantities of any byproducts and waste produced. In the case of articles manufacturer with the use of distilled spirits, the statement shall also be verified by the foreman or chemist of the factory and shall show the number of packages of spirits used, the marks and numbers, the number of wine, proof and taxable gallons, and the degree of proof.

(k) The same proofs of exportation shall be required as in the case of other warehouse withdrawals for exportation.

(l) When the fact of exportation of all the products has been established by such proofs and any byproducts and waste have been exported or released for consumption, the bond given by the manufacturer, or the charges against his general bond, shall be canceled.

(m) Shortage, irregular delivery, and nondelivery occurring with respect to merchandise withdrawn from bonded manufacturing warehouse while it is under transportation in bond shall be charged against the bonded carrier.

(Sec. 311, 46 Stat. 691, as amended; 19 U.S.C. 1311)

§ 19.16 Cigar-manufacturing warehouses.

(a) Tobacco to be used in the manufacture of cigars in bond under the provisions of section 311, Tariff Act of 1930, as amended,[21] shall be entered for warehouse but may be transferred directly from the importing vessel or from a bonded warehouse of class 2 or 3 into a bonded manufacturing warehouse of class 6 and stored in separate compartments therein under customs locks pending its withdrawal for use in the manufacture of cigars. Before any such tobacco may be transferred to the manufacturing department in such premises for use in the manufacture of cigars, it shall be withdrawn in original packages and duty paid thereon in the same manner and under the same regulations as govern the withdrawal of merchandise for consumption from warehouses of class 3. When tax-paid cigars are returned to the manufacturing department of a cigar manufacturing warehouse from which withdrawn for the purposes in accordance with 26 CFR 275.172 of the regulations of the Internal Revenue Service, they shall be properly accounted for and shall not be released therefrom for consumption except upon compliance with all regulations applicable to such release. A record of all such cigars so returned to the manufacturing department shall be kept by customs along with a copy of the schedule on Internal Revenue Form 3069. The cigars so returned shall be verified by the customs officer against the schedule which shall be certified by him as to the cigars returned, and the original and one copy returned to the taxpayer who returned the cigars.

(b) Cigars manufactured in a bonded warehouse for home consumption shall not be removed therefrom until customs stamps have been affixed to each package containing such cigars. Upon removal of cigars, the customs officer shall make appropriate entry in his records of the quantity and class of such cigars.

(c) A record of all tobacco received in a bonded manufacturing warehouse and delivered from storage compartments to the manufacturing department shall be kept on customs Form 5215.

(d) Cigars may be exported from a bonded manufacturing warehouse without payment of duty or internal-revenue tax under the laws and regulations governing the withdrawal of merchandise from other warehouses of class 6.

(e) Before removal of cigars from the bonded premises for consumption, there shall be affixed to each box thereof the stamp provided by the Government indicating their character according to the method of manufacture, origin of tobacco, place of manufacture, and that they were manufactured in bond. These stamps shall be sold to the manufacturer by the collector of customs. The manufacturer will be advised of the price by the collector of customs upon request.

(f) Before the removal of cigars from the bonded premises, the customs stamps shall be canceled in a legible manner by means of a rubber stamp or perforation showing the name of the manufacturer, the place where the factory is located, and the date of cancellation.

(g) Before removal from the bonded premises for consumption, each package of cigars must be marked by legibly imprinting or branding thereon or on a label securely affixed thereto the statement (for customs purposes) "Made in No. ------, customs bonded manufacturing warehouse, class 6", and (as required in regulations of the Internal Revenue Service) a statement of the quantity and classification or class designation (for large cigars) of the cigars contained therein. Upon withdrawal (release) of cigars subject to internal revenue tax for consumption, such tax as is applicable shall be paid to customs by return, as provided in regulations of the Internal Revenue Service (26 CFR Part 275), which return shall be made on an appropriately modified customs Form 7505. One return shall cover all cigars withdrawn (released) on any one day, and such return shall be filed on the first business day after the date of withdrawal. The taxes covered by the return shall be secured by the Proprietor's Manufacturing Warehouse Bond, customs Form 3583. One copy of the return on Form 7505 shall be returned to the taxpayer, one copy shall be retained by customs, and one copy shall be marked 'For Internal Revenue Purposes' and shall be so used. In such case, Form 7505 shall be prepared to show the statement for tax purposes (26 CFR 275.81) and shall be signed by the taxpayer or his authorized agent under whose bond release is made but shall not be required to show any other information such as is required for duty purposes under § 8.37 of this chapter. When accepted, such a return shall be treated as an entry and liquidated upon payment of the taxes on the cigars and charges, if any.

(h) Proprietors of premises bonded for the manufacture of cigars may remove therefrom scraps, cuttings, and clippings of tobacco produced in the premises for transfer to cigar or tobacco manufacturers operating under the internal-revenue laws. Such proprietors shall keep a record of each transfer of scraps, cuttings, and clippings, and application for

---

[21] "* * * cigars manufactured in whole of tobacco imported from any one country, made and manufactured in such bonded manufacturing warehouses, may be withdrawn for home consumption upon the payment of the duties on such tobacco in its condition as imported under such regulations as the Secretary of the Treasury may prescribe, and the payment of the internal-revenue tax accruing on such cigars in their condition as withdrawn, and the boxes or packages containing such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture. * * *" (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

permission for such transfer shall be in the following form:

APPLICATION AND PERMIT FOR TRANSFER OF SCRAPS, CUTTINGS, AND CLIPPINGS

Port of _____,
_____, 19____.

The Collector of Customs,
_____

SIR: Application is hereby made to transfer _____ pounds of scraps, cuttings, and clippings of tobacco upon which duty has been paid from our bonded manufacturing warehouse, class 6, to _____ factory No. _____, district _____, State of _____.

_____
Proprietor of Bonded Manufacturing Warehouse, Class 6

Port of _____,
_____, 19____.

The above application is hereby granted. The customs warehouse officer shall deliver the material stated and make his report below.

_____
Collector

Port of _____,
_____, 19____.

I hereby certify that _____ pounds of scraps, cuttings, and clippings of tobacco, upon which duty has been paid, have been delivered by me from the bonded manufacturing warehouse, class 6, of _____ for transfer to _____.

_____
Customs warehouse officer

(Sec. 311, 46 Stat. 691, as amended, secs. 5723, 5752, 68A Stat. 713, 716; 19 U. S. C. 1311, 26 U. S. C. 5723, 5752)

SMELTING AND REFINING WAREHOUSES

§ 19.17 Application to establish warehouse; bond.

(a) Application for the bonding of a plant of a manufacturer engaged in the smelting or refining, or both, of metal-bearing materials as provided for in section 312, Tariff Act of 1930, as amended,[22]

---

[22] "* * * Metal-bearing materials may be entered into a bonded smelting or refining warehouse without the payment of duties thereon and there smelted or refined, or both, together with metal-bearing materials of domestic or foreign origin. Upon arrival of imported metal-bearing materials at the warehouse they shall be sampled according to commercial methods and assayed, both under customs supervision. The bond shall be charged with a sum equal in amount to the duties which would be payable on such metal-bearing materials in their condition as imported if entered for consumption, and

(Footnote 22—Continued)

the bond charge shall be adjusted to reflect changes in the applicable rate of duty occurring while the imported materials are still covered by the bond.

"(b) The several charges against such bond may be cancelled in whole or in part—

"(1) upon the exportation from the bonded warehouses which treated the metal-bearing materials, or from any other bonded smelting or refining warehouse, of a quantity of the same kind of metal contained in any product of smelting or refining of metal-bearing materials equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c), or

"(2) upon payment of duties on the dutiable quantity of metal contained in the imported metal-bearing materials, or

"(3) upon the transfer of the bond charges to another bonded smelting or refining warehouse by physical shipment of a quantity of the same kind of metal contained in any product of smelting or refining of metal-bearing materials equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c), or

"(4) upon the transfer of the bond charges to a bonded customs warehouse other than a bonded smelting or refining warehouse by physical shipment of a quantity of the same kind of metal contained in any product of smelting or refining equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c), and upon withdrawal from such other warehouse for exportation or domestic consumption the provisions of this section shall apply, or

"(5) upon the transfer to another bonded smelting or refining warehouse without physical shipment of metal of bond charges representing a quantity of dutiable metal contained in imported metal-bearing materials less wastage provided for in subsection (c) of the plant of initial treatment of such materials provided there is on hand at the warehouse to which the transfer is made sufficient like metal in any form to satisfy the transferred bond charges.

"(c) For purposes of paragraphs (1), (3), (4), and (5) of subsection (b), due allowances shall be made for wastage of metals other than copper, lead, and zinc, as ascertained from time to time by the Secretary of the Treasury.

"(d) Upon the exportation of a product of smelting or refining other than refined metal the bond shall be credited with a quantity of metal equivalent to the quantity of metal contained in the product exported less the proportionate part of the deductions allowed for losses in determination of the bond charge being cancelled that would not ordinarily be sustained in production of the specific product exported as ascertained from time to time by the Secretary of the Treasury.

"(e) Two or more smelting or refining warehouses may be included under one general bond and the quantities of each kind of metal subject to duty on hand at all of such warehouses may be aggregated to satisfy the bond obligation.

"(f) For purposes of this section—

"(1) The term 'metal-bearing materials' means metal-bearing ores and other metal-bearing materials provided for in schedule 6, part 1, of the Tariff Schedules of the United States, 'metal waste and scrap' and 'unwrought metal' to be smelted or refined provided for in schedule 6, part 2, of such schedules, and metal compounds to be processed for the recovery of their metal content;

"(2) the term 'smelting or refining' embraces only pyrometallurgical, hydrometallurgical, and electrometallurgical, chemical, or other processes—

"(A) for the treatment of metal-bearing materials to reduce the metal content thereof to a metallic state in the course of recovering it in forms which if imported would be classifiable in part 2 of schedule 6 as 'unwrought metal', or in the form of oxides or other compounds which are obtained directly from the treatment of materials provided for in part 1 of schedule 6, and

"(B) for the treatment of unwrought metal or metal waste and scrap to remove impurities or undesired components; and

"(3) the term 'product of smelting or refining' means metals or metal-bearing materials resulting directly from smelting or refining processes, but does not include metal-bearing ores as defined in part 1 of schedule 6.

"(g) Labor performed and services rendered pursuant to this section shall be under the supervision of an officer of the customs, to be appointed by the Secretary of the Treasury and at the expense of the manufacturer. The Secretary of the Treasury is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section." (Tariff Act of 1930, sec. 312, as amended; 19 U.S.C. 1312.)

to reduce the metal content thereof to an unwrought metal, or metal in the form of oxides or other compounds which are obtained directly from the treatment of the dutiable materials provided for in schedule 6, part 1 or 2, Tariff Schedules of the United States, shall be made by the manufacturer, through the collector of the district in which such plant is situated, giving the location of the premises and setting forth the work proposed to be carried on therein, accompanied by the fee prescribed by § 24.12(a)(1)(iii) of the regulations of this chapter. If two or more plants are to be covered by the smelting and refining bond, the application may be filed with any collector of a district in which smelting and refining operations are to be conducted, accompanied by a copy of such application for each collector in whose district the smelting and refining warehouse or warehouses are proposed to be established, and the prescribed fee for each warehouse. On receipt of the original application or a copy thereof, each collector shall make a survey of the premises in his own district and submit his recommendations to the Bureau.

(b) Upon 10 days' notice from the collector, the manufacturer shall be required to renew his bond and if he fails to do so no further permits shall be granted for removals from or transfers to his warehouse.

(c) At the request of the proprietor the bonded status of the warehouse may be discontinued at any time, provided the Bureau approves such discontinuance and the proprietor complies with directions of the collector with respect to such merchandise as may remain in the warehouse.

(d) Upon the importation at any seaboard or frontier port of the United States of metal-bearing materials in any form intended for a bonded smelting or refining warehouse situated at some other port of entry, they may be forwarded under an immediate transportation without appraisement entry.

(e) Upon the arrival of imported metal-bearing materials in any form for the purpose of being smelted or refined, or both, in bond at a port where a bonded smelting or refining warehouse is established, they shall be entered for warehouse. A bond on customs Form 7555 shall be filed with each warehouse entry unless a blanket smelting and refining bond in the form authorized in T.D. 50267, as amended by T.D. 52403, has been filed. The collector shall thereupon issue a permit to the inspector to send such metal-bearing materials from the importing vessel or vehicle by designated bonded vessels or vehicles to the smelting and refining warehouse named in the entry.

(f) Bonded metal-bearing materials shall be kept separate and distinct from nonbonded material until they have been sampled and weighed.

(g) Where two or more smelting and refining warehouses are included under

one blanket smelting and refining bond, an overall statement shall be filed by the principal of the warehouse with the Bureau and each collector of customs involved by the 28th of each month, showing the inventory as of the close of the preceding month, of all metals on hand at each plant covered by the blanket bond and the total of bonded charges for all plants. Each collector in whose district a plant or plants are located shall be responsible for the determination as to the correctness of the inventory report insofar as the amounts held at plants under his jurisdiction are concerned. All discrepancies which cannot be reconciled by the collector shall be reported to the Bureau immediately. Where the Bureau finds that the aggregate quantity of dutiable metal at the several plants does not equal the quantity charged against the blanket bond, duties shall be collected for the quantity determined to be deficient.

(Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312)

§ 19.18 Smelting and refining; allowance for wastage; withdrawal for consumption.

(a) Except where absolute deductions have been allowed in the liquidation of the entry for losses on copper, lead, and zinc content of metal-bearing materials, pursuant to schedule 6, part 1, headnote 4(b), Tariff Schedules of the United States (see § 8.48(h) of this chapter), the actual percentage of losses by weight shall be allowed if more than 90 percent by weight of: (1) The zinc content initially treated at any lead plant, (2) the copper content of the imported materials treated at any zinc plant, or (3) the copper, lead, or zinc content of the imported material initially treated at any plant other than a copper, lead, or zinc plant is lost in processing such materials. Such actual percentage of losses by weight of the metal content shall be that shown by the manufacturer's annual statement. Such losses shall be applied in the liquidation of the entry to materials entered for consumption or for warehouse, during a 12-month period beginning on the first day of the month nearest to 90 days after the close of the manufacturer's fiscal year immediately preceding such 90-day period, provided the importer makes claim therefor in writing at the time the merchandise is entered. No further wastage shall be allowed. The full dutiable contents of such metal-bearing materials, as ascertained by commercial assay made by the Government chemists, less the wastage allowance (including dutiable metals entirely lost in smelting or refining, or both), shall constitute the quantity of dutiable metal which must be either exported, duty-paid, or transferred to another bonded warehouse in order to secure the cancellation of the charge made against the proprietor's bond as shown by the warehouse or rewarehouse entry account.

(b) Upon the withdrawal for consumption of metal so smelted or refined, or both, duty shall be collected thereon without the allowance for wastage, except where the metal was transferred to a bonded customs warehouse other than a smelting warehouse and withdrawn therefrom for consumption. However, duty-paid warehouse withdrawals for consumption may be filed with regard to metal which will be physically withdrawn in the form of smelted or refined products whether at the time of the filing of the withdrawal papers the dutiable metal covered by the bond charge being cancelled by the withdrawal is in the form of ores, concentrates, crude metals, or intermediate products. If the warehouse withdrawal for consumption covers a product which does not sustain the full wastage allowable (see § 19.22) prior to being physically released from customs custody, a proportionate part only of such wastage may be allowed. The warehouse withdrawal and delivery permit shall (1) describe the smelted or refined products to be withdrawn in terms of the condition in which they will be when released from customs custody upon presentation of the delivery permit; (2) state the estimated amount of the dutiable metal contained in the products; and (3) the warehouse withdrawal shall specify the applicable wastage. A quantity of dutiable metal equivalent to the smelted or refined products covered by each withdrawal for consumption must be actually on hand at the plant or plants covered by the bond at the time of filing the withdrawals; but neither the actual ability to withdraw smelted or refined products from the warehouse nor the actual physical condition described in the withdrawal will be required at the time of filing the withdrawal.

(Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312)

§ 19.19 Manufacturers' statements.

(a) Every manufacturer engaged in smelting or refining, or both, shall immediately notify the collector of the district in which his plant is located of any material change in the character of the metal-bearing materials smelted or refined and of any change in the methods of smelting or refining, and shall file with the collector an annual statement not later than 60 days after the termination of the manufacturer's fiscal year. No specific form is prescribed in which such statement shall be prepared. As basic information, the statement shall show the quantities of metal-bearing materials on hand at the beginning of the period, and the dutiable contents thereof;[2] quantities of metal-bearing materials received during the period, and the dutiable contents thereof; total metal-bearing materials to be accounted for, and the dutiable contents thereof; quantities of metal-bearing materials on hand at the end of the period, and the dutiable contents thereof; and the quantities of metal-bearing materials worked during the period, and the dutiable contents thereof. The statement of the quantity of metal-bearing materials worked during the period shall show the quantity of foreign material and the quantity of domestic material put in process during the smelting operations. The statement shall contain such further information concerning the quantities and kinds of metals and intermediary products produced at the plant as will show the wastage sustained in the smelting and refining operation.

(b) Complete smelting and refining records shall be kept from which the annual statement shall be prepared. These records shall be retained for a period of 5 years from the date of the related annual statement, and shall be made available to the collector of customs for such verification of the manufacturer's statement as the collector shall deem advisable.

(Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312)

[2] By "dutiable contents" is meant the quantity of each metal of a kind subject to duty contained in the material treated.

§ 19.20 Withdrawal of products from bonded smelting or refining warehouses.

(a) *For exportation.* The general procedure governing warehouse withdrawals for exportation shall be followed in the case of the withdrawal for exportation of dutiable metal from a bonded smelting or refining warehouse.

(b) *For transfer to another bonded warehouse.* (1) Withdrawal for transfer to another bonded warehouse shall be at the risk and expense of the applicant, and the general regulations governing the transfer of bonded merchandise from one warehouse to another or the transfer of imported materials from a bonded storage warehouse to a bonded manufacturing warehouse shall be followed so far as applicable.

(2) In the case of transportation to another port, the transportation entry shall show the quantity of metal withdrawn, the wastage applicable thereto, and the imported material from which such metal was produced, together with any dutiable metal charged on entry.

(Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312)

§ 19.21 Smelting and refining in separate establishments.

(a) If the operations of smelting and refining are not carried on in the same establishment, the smelted and unrefined products obtained from the smelting of imported materials in a bonded smelting warehouse may be removed therefrom for shipment to a bonded refining warehouse located at the same or another port under the general procedure for transfer from one bonded warehouse to another.

(b) When the transfer is to a bonded refining warehouse located at another port, the smelted and unrefined products or bullion obtained from the smelting of the imported material shall be weighed, sampled, and assayed before withdrawal, the sampling to be performed under Government supervision in accordance with the commercial practice in effect at the plant.

(c) The withdrawal for transportation shall show the gross weight of the smelted and unrefined products withdrawn, the weight of the dutiable metal contained therein, the wastage applicable thereto, and the duties properly

chargeable on the withdrawn products as shown by the import entry.

(d) The rewarehouse entry covering the smelted and unrefined products at the bonded refining warehouse to which they are transferred shall be made out in accordance with the weights and duties shown on the withdrawal for transportation.

(e) Upon withdrawal of the metal from the bonded refining warehouse for export, the warehouse account of the refining warehouse shall be credited with the amount of metal so withdrawn, plus the refining wastage prescribed for said refining warehouse, plus the smelting wastage prescribed for the bonded smelting warehouse in which the smelted and unrefined products were produced, together with the amount of any dutiable metals entirely lost in the smelting or refining, or both. However, when the metal is withdrawn for consumption, duty shall be collected on an amount of metal-bearing materials in their condition as imported equivalent to that from which such metal would be producible. No allowance for either smelting or refining wastage shall be permitted, except where the metal is withdrawn from a customs warehouse other than a bonded smelting and refining warehouse.

(Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312)

§ 19.22 Withdrawal of metal refined in part from imported crude metal and in part from crude metal produced from imported materials.

Upon withdrawal for exportation of metal from a bonded warehouse engaged in refining, or smelting and refining, part of which metal was obtained from imported crude metal and part from crude metal produced by smelting imported materials, the warehouse account shall be credited with the quantity of metal so withdrawn, plus (a) the refining wastage allowance prescribed for that establishment, and (b) the smelting wastage allowance prescribed for the establishment in which the imported materials were smelted, and (c) any dutiable metals shown on the warehouse entry or the rewarehouse entry filed at the first-mentioned warehouse which have been lost and are attributable to the exported product. However, upon withdrawal of such refined metal for consumption, no allowance shall be made for wastage except where the withdrawal is made from a bonded customs warehouse other than a bonded smelting and refining warehouse.

(Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312)

§ 19.23 Withdrawal for exportation from one port to be credited on warehouse entry account at another port.

On exportation of metal pursuant to the provisions of section 312(b)(1), Tariff Act of 1930, as amended,[24] the general procedure covering warehouse withdrawals for exportation shall be followed. The proprietor of the plant from which the withdrawal is made shall prepare a sufficient number of copies of withdrawals on customs Form 7512, in addition to any other copies required by the regulations, to enable the collector of customs at the port of withdrawal to forward a copy to the collector of customs for each district where credit is to be applied and to each comptroller of customs concerned. Such withdrawals shall designate the plant or plants which are to receive the credit, shall specify the warehouse entry number or numbers to which the credit is to be applied, and shall state the quantity of dutiable metal which is to be applied to each warehouse entry specified, and when any of the credits specified represent the last withdrawal against a particular warehouse entry, the words "final withdrawal" shall be shown on the withdrawal. When two or more plants in a given collection district are designated to receive credit, sufficient copies of the withdrawals shall be prepared to cover each such plant and entry. If at the time of withdrawal the warehouse proprietor does not know the plants or warehouse entry numbers which are to be credited with the withdrawal, or the metallic content of the dutiable metal being exported, the preparation of the before-mentioned copies of customs Form 7512 may be postponed for a period of not longer than 30 days from the date of the movement of the dutiable metal from the plant. In such cases, a so-called memorandum withdrawal, in the number of copies provided for in § 18.19 of this chapter, may be used in the first instance for the purpose of obtaining the required customs record of the exportation of the dutiable metal under customs supervision. All memorandum withdrawals shall be conspicuously endorsed "Memorandum Withdrawal."

(Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312)

§ 19.24 Theoretical transfer without physical shipment of dutiable metal.

(a) Transfer may be made from one port of entry to another by a withdrawal for transportation and rewarehouse executed in regular form without physical shipment of the metal, provided enough like metal in any form is on hand at the establishment to which the theoretical transfer is made to satisfy the new bond obligations.

(b) The wastage allowance established for the plant from which the original withdrawal for transportation was made shall be shown on the transfer withdrawal and set up as a part of the charge against the bond at the plant to which the metal was theoretically transferred. Such wastage shall govern and be the basis for allowance when metal is withdrawn from the plant where the theoretical rewarehousing was effected.

(Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312)

§ 19.25 Credit to be applied under various forms of withdrawals.

(a) The warehouse entry account of the plant designated in the withdrawal to receive credit for the exportation shall be credited with the following:

(1) The quantity of dutiable metal exported.

(2) The wastage in effect on the date of entry at the plant of initial treatment of such materials.

(3) The proportion of any other dutiable metals in the importation being credited which were lost at the said plant in the production of a quantity of dutiable metal equal to that exported.

(b) If credit is being applied to a charge set up by a theoretical transfer under § 19.24 at the plant designated in the withdrawal to receive the credit, the wastages to be applied shall be those set up at such plant in connection with the theoretical transfer, irrespective of the date of the withdrawal.

(c) On the transfer of dutiable metal to a bonded storage warehouse, credit shall be applied at the plant designated in the withdrawal to receive the credit in the manner provided for in paragraph (a) of this section with respect to withdrawals for exportation. The charge so credited at the plant shall be set up on the warehouse entry account of the storage warehouse to which the dutiable metal has been transferred. In the case of the withdrawal of dutiable metal for transfer to a bonded manufacturing warehouse, credit shall be applied in the same manner at the plant designated in the withdrawal to receive the credit, but the charge set upon the warehouse entry account of the bonded manufacturing warehouse shall be limited to the quantity of dutiable metal transferred to such warehouse.

(Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312)

SPACE BONDED FOR THE STORAGE OF WHEAT

§ 19.29 Sealing of bins or other bonded space.

The outlets to all bins or other space bonded for the storage of imported wheat shall be sealed by customs officers by affixing customs locks or customs tyden seals to the rope or chain which controls the gear mechanism for opening the outlets, or such other method as will effectively prevent the removal of the wheat from, or access to the wheat in, the bonded space except under customs supervision.

(Secs. 555, 556, 46 Stat. 743; 19 U. S. C. 1555, 1556)

§ 19.30 Domestic wheat not to be allowed in bonded space.

The presence of domestic wheat in space bonded for the storage of imported wheat shall not be permitted.

(Secs. 555, 556, 46 Stat. 743; 19 U. S. C. 1555, 1556)

---

[24] "(b) The several charges against such bonds may be cancelled in whole or in part—

"(1) upon the exportation from the bonded warehouses which treated the metal-bearing materials, or from any other bonded smelting or refining warehouse, of a quantity of the same kind of metal contained in any product of smelting or refining of metal-bearing materials equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c) * * *" (Tariff Act of 1930, sec. 312(b)(1) as amended; 19 U.S.C. 1312.)

ance shall be made for wastage except [illegible]

§ 19.31 Bulk wheat of different classes and grades not to be commingled in storage.

All wheat shall be stored by class and grade according to the Official Grain Standards of the United States or the official standards of the Canadian Board of Grain Commissioners, in bins, compartments, or other enclosed spaces identified by clearly distinguishable insignia securely affixed thereto, so as to facilitate the maintenance of identity of the wheat. There shall be no mixing or commingling of different classes or grades of wheat in the same bin, battery of bins, or other bonded space. If the wheat is stored in bags or other transportation containers, such bags or containers shall be so marked and so placed in the warehouse that the identity of the wheat will not be lost while in storage, to permit easy access to all lots, and to facilitate inspecting, sampling, and the identification of each lot.

(Secs. 555, 556, 46 Stat. 743; 19 U. S. C. 1555, 1556)

CROSS REFERENCE: For regulations respecting Official Grain Standards of the United States, see 7 CFR, Part 26.

§ 19.32 Wheat manipulation; reconditioning.

(a) The mixing, blending, or commingling of imported wheat and domestic wheat, or of imported wheat of different classes and grades, as an incident of transportation or as an incident of exportation under transportation and exportation entries, direct export entries, or withdrawals for exportation shall not be permitted. Applications for permission to manipulate wheat under the provisions of section 562, Tariff Act of 1930, as amended, shall be approved only after the concurrence of all interested Federal agencies has been furnished by the applicant.

(b) Where it is found that elevating, screening, blowing, fumigating, or drying of the wheat is essential to keep it in condition, the proprietor of the warehouse shall submit an application in writing to the collector. All such operations shall be performed under customs supervision adequate to preclude unauthorized access to the wheat.

(Secs. 555, 556, 562, 46 Stat. 743, 745, as amended; 19 U. S. C. 1555, 1556, 1562)

§ 19.33 General order; transportation in bond.

The provisions of §§ 19.25 through 19.32 shall be applicable to those parts of any premises in which imported wheat is stored in a general-order status, or stored pending exportation under an entry for exportation or for transportation and exportation.

(Secs. 555, 556, 46 Stat. 743; 19 U. S. C. 1555, 1556)

§ 19.34 Customs supervision.

Collectors of customs shall exercise such supervision and control over the transactions covered by §§ 19.29 through 19.32 as will insure that there will be no unauthorized access to the imported wheat and no unauthorized mixing, blending, or commingling of such imported wheat. Importers, exporters, proprietors of customs bonded warehouses, bonded common carriers, and others handling imported wheat in continuous customs custody shall maintain such records as will enable customs officers to verify the handling to which the imported wheat has been subjected, and to establish whether there has been a proper accounting to customs for any increase in the quantity of the wheat or shortages resulting from shrinkage or other factors. These records shall be retained for a period of 2 years after the date of the transaction. Collectors of customs shall from time to time request the supervising customs agent for the district concerned to examine such records of importers, exporters, warehouse proprietors, bonded common carriers, and others handling such wheat in continuous customs custody as may be deemed necessary to ascertain whether there has been any failure to comply with the applicable customs laws and regulations.

(Sec. 556, 46 Stat. 743, sec. 646, 67 Stat. 520; 19 U. S. C. 1556, 1646a)

PART 20—DISPOSITION OF UNCLAIMED AND ABANDONED MERCHANDISE

Sec.

20.1 Storage of unclaimed and abandoned merchandise.
20.2 Withdrawal from general order for entry.
20.3 Merchandise remaining in customs custody or in bonded warehouse beyond the time fixed by law.
20.4 Articles subject to internal-revenue tax.
20.5 Sale of unclaimed and abandoned merchandise.
20.6 Proceeds of sale; payment of charges and expenses; surplus; deficit.

AUTHORITY: §§ 20.1 to 20.6 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 20.1 Storage of unclaimed and abandoned merchandise.

(a) Unclaimed and abandoned merchandise,[1] including merchandise formally abandoned to the Government, shall be sent under a permit to a suitable warehouse of class 2, 3, 4, or 5 specially designated for the purpose by the collector (see § 19.1(a)(2), (3), (4), and (5) of this chapter), or to a public store.

[1] "Any entered or unentered merchandise (except merchandise entered under section 557 of this Act, but including merchandise entered for transportation in bond or for exportation) which shall remain in customs custody for one year from the date of importation thereof, without all estimated duties and storage or other charges thereon having been paid, shall be considered unclaimed and abandoned to the Government and shall be appraised by the appraiser of merchandise and sold by the collector at public auction under such regulations as the Secretary of the Treasury shall prescribe. * * *" (Tariff Act of 1930, sec. 491, as amended; 19 U. S. C. 1491)

"Merchandise upon which any duties or charges are unpaid, remaining in bonded warehouse beyond three years from the date of importation, shall be regarded as abandoned to the Government and shall be sold under such regulations as the Secretary of the Treasury shall prescribe, and the proceeds of sale paid into the Treasury, as in the case of unclaimed merchandise covered by section 493 of this Act, subject to the payment to the owner or consignee of such amount, if any, as shall remain after deduction of duties, charges, and expenses. * * *" (Tariff Act of 1930, sec. 550, as amended; 19 U. S. C. 1559)

(b) Whenever, pursuant to section 457 or 490, Tariff Act of 1930, the collector shall take possession of a cargo which is unclaimed and not unladen, he shall require, as a condition for granting a permit to discharge, that the vessel be removed at the expense of the owner to the wharf, pier, or other place most convenient to the general-order stores.

(c) Storage at the ordinary rates and all other expenses shall be paid by the owner or consignee of the merchandise upon entry thereof; but if the goods are sold, such charges shall be paid from the proceeds of sale to the extent that proceeds are available.

(Sec. 490, 46 Stat. 726; 19 U. S. C. 1490)

§ 20.2 Withdrawal from general order for entry.

(a) Merchandise in general order may be exported without examination or appraisement if the merchandise is delivered to the exporting carrier within 1 year from the date of importation. Such merchandise may be entered within 1 year from the date of importation for immediate transportation without appraisement to any port of entry designated by the consignee. Any imported merchandise, including merchandise entered for transportation, for which entry for consumption or warehouse or delivery to a carrier for exportation has not been completed prior to the expiration of 1 year from the date of original arrival shall be treated as abandoned. Entry for immediate transportation without appraisement shall be permitted after the expiration of the 1-year period only for the purpose of filing an entry for consumption at the port of destination.

(b) The withdrawal from general order of less than a single general-order lot shall not be permitted except as provided for in § 8.8 of this chapter.

(Sec. 490, 46 Stat. 726; 19 U. S. C. 1490)

§ 20.3 Merchandise remaining in customs custody or in bonded warehouse beyond the time fixed by law.

(a) If storage or other charges due the United States have not been paid on merchandise remaining in customs custody after the expiration of the bond period in the case of merchandise entered for warehouse, or after the expiration of 1 year from the date of importation in any other case, even though

any duties due have been paid, such merchandise shall be sold as provided for in § 20.5 unless entered or withdrawn for consumption in accordance with paragraph (b) of this section.

(b) Merchandise subject to sale (except merchandise abandoned under section 506 (1) or 563 (b), Tariff Act of 1930) may be entered or withdrawn for consumption at any time prior to sale upon payment of the duties, any internal-revenue tax, and all charges and expenses that may have accrued thereon. Such merchandise may not be exported without payment of duty nor entered for warehouse.[2]

(c) Duty paid merchandise for which a permit to release has been issued but which remains in warehouse beyond the bond period [3] shall be released to the warehouse proprietor. Free and duty-paid merchandise not entered for warehouse for which permits to release have been issued, remaining in bonded warehouse at the expiration of 1 year from the date of importation, shall be released to the warehouse proprietor.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; 19 U. S. C. 1491, 1559)

§ 20.4 Articles subject to internal-revenue tax.

Articles subject to internal-revenue tax (except forfeited distilled spirits [4] and except voluntarily abandoned merchandise which has not been cleared by the General Services Administration) may be sold for domestic consumption, but only if they will bring an amount sufficient to pay the internal-revenue tax and, in the case of tobacco "articles" and "tobacco materials," as defined in 26 U.S.C. 5702 (j), (k),[4a] only if they will bring an amount sufficient to pay the expenses of sale as well as the internal-revenue tax. If such articles cannot be sold for domestic consumption in accordance with the foregoing conditions, they shall be destroyed unless they can be advantageously sold for export from continuous customs custody or unless the Bureau has authorized other disposition to be made under the law.[5] Such articles may be sold for domestic consumption even though the proceeds of sale will not cover the duties due.

(Sec. 492, 46 Stat. 727, sec. 201, 72 Stat. 1412, 68A Stat. 716, as amended; 19 U.S.C. 1492, 26 U.S.C. 5688, 5753)

§ 20.5 Sale of unclaimed and abandoned merchandise.

(a) All unclaimed and abandoned merchandise shall be sold at the first regular sale held after the merchandise becomes subject to sale, unless a deferment of its sale is authorized by the Commissioner of Customs. Regular sales of unclaimed and abandoned merchandise on hand and subject to sale shall be made once in every year, or more often at the discretion of the collector. Such sales may be conducted by the collector, any employee designated by him, or by a public auctioneer.

(b) Before unclaimed merchandise is offered for sale, it shall be appraised in accordance with section 402, Tariff Act of 1930, as amended.[5a] Such merchandise shall also be appraised at its actual domestic value in its condition at the time and place of examination, whether or not it has depreciated or appreciated in value since the date of exportation. The quantity of merchandise in each lot appraised shall be reported.

(c) Before drugs, insecticides, seeds, plants, nursery stock, and other articles required to be inspected by the Department of Agriculture are advertised, they shall be inspected by a representative of the Department of Agriculture to ascertain whether they comply with the requirements of the law and regulations of that Department. If found not to comply with such requirements, they shall be forthwith destroyed.

(d) All merchandise at ports other than a headquarters port which becomes subject to sale, including explosives, perishable articles, and articles liable to depreciation, shall be promptly reported to the headquarters port for disposition. The collector, in his discretion, may sell such merchandise, as well as merchandise at the headquarters port which is subject to sale, at the headquarters port or at any other port within the district.

(e) Except as prescribed in paragraphs (f), (g), and (h) of this section, a brief notice of the time and place of sale shall be given for 3 successive weeks immediately preceding the sale in one newspaper of extensive circulation published at the port where the sale is to be held. The newspaper shall be selected by the collector and publication of the notice shall be authorized on the standard form provided for that purpose. Such notice shall designate the place where catalogs may be obtained and reasonable opportunity to inspect the merchandise shall be afforded prospective purchasers.

(f) Unclaimed explosives and other dangerous articles and fruit and other perishable articles shall be sold on 3 days' public notice.[6]

(g) Other unclaimed merchandise shall be sold at public auction upon public notice of not less than 6 nor more than 10 days, as the collector may determine, if, in the opinion of the collector, such merchandise, because of depreciation in value by reason of damage, leakage, or other cause, will sell for an amount insufficient to pay the duties, storage, and other charges if allowed to remain in general order for 1 year. Unclaimed merchandise remaining on the dock which, in the opinion of the collector, will not sell for enough to pay the cost of cartage and storage shall be sold in the same manner.[7]

(h) If the collector is satisfied that the proceeds of sale will not be sufficient to pay the expenses and duties, a written or printed notice of the sale in lieu of the advertisement shall be conspicuously posted in the customhouse, and, if deemed necessary, at some other proper place for the time above specified.

(i) The catalogs, if used, shall specify the marks, numbers, and description of packages, the description and quantities of their contents, the appraised value thereof and also the domestic value at the time and place of the examination of the merchandise. The catalogs shall be distributed at the sale and announcement made that the Government does not guarantee quality or value and that no allowance will be made for any deficiency found after sale.

(j) When the name and address of the consignee can be ascertained, notice

---

[2] "* * * Merchandise subject to sale hereunder or under section 559 of this Act may be entered or withdrawn for consumption at any time prior to such sale upon payment of all duties, storage, and other charges, and expenses that may have accrued thereon, but such merchandise after becoming subject to sale may not be exported prior to sale without the payment of such duties, charges, and expenses nor may it be entered for warehouse. The computation of duties for the purposes of this section and sections 493 and 559 of this Act shall be at the rate or rates applicable at the time the merchandise becomes subject to sale." (Tariff Act of 1930, sec. 491, as amended; 19 U. S. C. 1491)

[3] "* * * Merchandise upon which all duties and charges have been paid, remaining in bonded warehouse beyond three years from the date of importation, shall be held to be no longer in the custody or control of the officers of the customs." (Tariff Act of 1930, sec. 559, as amended; 19 U. S. C. 1559)

[4] All distilled spirits, wine, and malt beverages forfeited, summarily or by order of court, under any law of the United States, shall be disposed of in accordance with the internal-revenue law and regulations.

[4a] "(a) Manufactured tobacco.

"'Manufactured tobacco' means all tobacco, other than cigars and cigarettes, prepared, processed, manipulated, or packaged for consumption my smoking or for use in the mouth or nose. * * *." 26 U. S. C. 5702 (a).

"(j) Articles.

"'Articles' means manufactured tobacco, cigars, cigarettes, and cigarette papers and tubes.

"(k) Tobacco materials.

"'Tobacco materials' means tobacco in process, leaf tobacco, and tobacco scraps, cuttings, clippings, siftings, dust, stems, and waste." 26 U. S. C. 5702 (j), (k).

[5] Except as provided in section 3369 of the Revised Statutes, as amended (relating to tobacco and snuff), and in section 901 of the Revenue Act of 1926 (relating to distilled spirits), any merchandise abandoned or forfeited to the Government under the preceding or any other provision of the customs laws, which is subject to internal-revenue tax and which the collector shall be satisfied will not sell for a sufficient amount to pay such taxes, shall be forthwith destroyed under regulations to be prescribed by the Secretary of the Treasury, instead of being sold at auction." (Tariff Act of 1930, sec. 492; 19 U. S. C. 1492)

[5a] "The function of determining values of unclaimed and abandoned merchandise in any case where the aggregate appraised value of the lot will not exceed $250 has been transferred from the appraiser to the collector. (T.D. 54430.)"

[6] When it is probable that entry will be made at an early date for unclaimed perishable merchandise, the collector may hold the merchandise for a reasonable time in a bonded cold-storage warehouse if one is available. (T. D. 37374 (18))

[7] "* * * All gunpowder and other explosive substances and merchandise liable to depreciation in value by damage, leakage, or other cause to such extent that the proceeds of sale thereof may be insufficient to pay the duties, storage, and other charges, if permitted to remain in public store or bonded warehouse for a period of one year, may be sold forthwith, under such regulations as the Secretary of the Treasury may prescribe. * * *" (Tariff Act of 1930, sec. 491, as amended; 19 U.S.C. 1491)

internal-revenue law and regulations. 19 U. S. C. 1492)

of the date of sale shall be mailed to him. When unclaimed merchandise was consigned to order or for other reason the name of a consignee cannot be obtained, the collector, where practicable, shall notify the shipper or his representative or the agent of the carrier of the date when and place where the goods are to be sold.

(k) Merchandise offered for sale but not sold shall be included in the next regular sale of unclaimed and abandoned merchandise. If the collector is satisfied that such merchandise is unsalable or of no commercial value, it shall be destroyed.

(Secs. 491, 559, 46 Stat. 726, as amended 744, as amended; 19 U.S.C. 1491, 1559)

§ 20.6 Proceeds of sale; payment of charges and expenses; surplus; deficit.

(a) From the proceeds of sale of merchandise remaining in public stores or in bonded warehouse beyond the time fixed by law, the following charges shall be paid in the order named:

(1) Internal revenue taxes.

(2) Expenses of advertising and sale.

(3) Expenses of cartage, storage and labor. When the proceeds are insufficient to pay such charges fully, they shall be paid pro rata. (For merchandise entered for warehousing, see paragraph (b) of this section.)

(4) Duties.

(5) Any other charges due the United States in connection with the merchandise.

(6) Any sum due to satisfy a lien for freight, charges, or contributions in general average, of which due notice shall have been given in the manner prescribed by law.

(b) The expenses of cartage, storage, and labor for merchandise entered for warehousing shall be paid in the following order:

(1) When such merchandise was warehoused in public stores, expenses of storage and labor shall be paid after expenses of sale (prorated when proceeds are insufficient to pay them fully) and any cartage charges shall be paid last.

(2) When such merchandise was warehoused in a bonded warehouse, expenses of storage, cartage, and labor shall be paid last (prorated when proceeds are insufficient to pay them fully).

(c) The duties chargeable on any merchandise within the purview of this section shall be assessed on the appraised dutiable value at the rate of duty chargeable at the time the merchandise became subject to sale.[8]

(d) The duties of the auctioneer shall be confined to selling the merchandise and his charge for such service shall in no case exceed the commissions usual at the port. Such commissions shall be allowed only on the gross sum actually realized on the sale.

(e) Accounts for the auctioneer's charges and all other expenses of sale which may be properly chargeable on the merchandise shall be presented to the collector for payment within 10 days from the date of sale. Such expenses shall be apportioned pro rata on the amounts received for the different lots sold.

(f) If a claim of the owner of unclaimed merchandise for the surplus proceeds of sale is properly established in accordance with § 24.25 of this chapter, such proceeds of sale shall be paid to him pursuant to section 493, Tariff Act of 1930.[9] Any doubtful claim shall be forwarded to the Bureau with all pertinent documents and information available to the collector for the instructions of the Bureau or for reference by it to the General Accounting Office for direct settlement.

(g) Claims of the owner or consignee for the surplus proceeds of a sale made pursuant to section 559, Tariff Act of 1930, shall be paid in the manner and subject to the conditions stated in paragraph (f) of this section.

(h) If the proceeds of sale of merchandise in warehouse beyond 3 years are insufficient to pay the duties after payment of all charges having priority, the deficiency shall be collected under the warehouse entry bond, by suit if necessary.

(i) When the proceeds of sale of unclaimed merchandise are insufficient to pay the charges and duties, the consignee shall be liable for the deficiency unless the merchandise was shipped to him without his consent. If no entry for the merchandise has been filed and no other attempt to control the merchandise has been made, the merchandise shall be regarded as shipped to the consignee without his consent and no effort shall be made to collect any deficiency of duties or charges from such consignee.

(Secs. 491–498, 559, 46 Stat. 726, as amended, 727, 744, as amended; 19 U. S. C. 1491–1493, 1559)

---

[8] Household and personal effects of the character provided for in paragraph 1798, as amended, or paragraph 1632, Tariff Act of 1930, which belong to persons who have not arrived in this country before the effects become subject to sale are dutiable at the rates in effect when the effects become subject to sale, even though such persons arrive and make entry for the effects before they are sold.

[9] "The surplus of the proceeds of sales under section 491 of this Act, after the payment of storage charges, expenses, duties, and the satisfaction of any lien for freight, charges, or contribution in general average, shall be deposited by the collector in the Treasury of the United States, if claim therefor shall not be filed with the collector within ten days from the date of sale, and the sale of such merchandise shall exonerate the master of any vessel in which the merchandise was imported from all claims of the owner thereof, who shall, nevertheless, on due proof of his interest, be entitled to receive from the Treasury the amount of any surplus of the proceeds of sale." (Tariff Act of 1930, sec. 493; 19 U. S. C. 1493)

PART 21—CARTAGE AND LIGHTERAGE

Sec.

21.1 Licensing of cartmen and lightermen; marking of vehicles and lighters.
21.2 Employees' identification cards.
21.3 Classes of cartage.
21.4 Government cartage.
21.5 Importers' cartage.
21.6 Suspension or revocation of license of cartman or lighterman.
21.7 Supervision of cartage and lighterage.
21.8 Liability; reports of loss or damage.
21.9 Tickets for goods carted or lightered.
21.10 Inability to deliver merchandise.

AUTHORITY: §§ 21.1 to 21.10 issued under secs. 565, 624, 46 Stat. 747, 759, sec. 101, 76 Stat. 72; 19 U.S.C. 1565, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following sections affected.

§ 21.1 Licensing of cartmen and lightermen; marking of vehicles and lighters.

(a) Except as provided for in § 18.3 (d) of this chapter and § 21.4(b), customs cartage and lighterage shall be done by cartmen and lightermen licensed by the collector or specifically authorized by the Commissioner of Customs for that purpose. Customhouse cartage and lighterage licenses, customs Form 3857, shall be issued by the collector of customs. Before such a license is issued, the cartman or lighterman shall be required to execute a bond on customs Form 3855 in an amount to be fixed by the collector[1] and pay the fee of $45 prescribed by § 24.12 of this chapter. The collector may appoint or license as a customs cartman or lighterman any common carrier who has executed and filed a carrier's bond, customs Form 3587. The license shall remain in force and effect as long as the required bond is considered sufficient or until the license is suspended or terminated. Before customhouse licenses are issued for bonded lighters or other such vessels, the vessel's marine documents, if any have been issued, shall be presented to the collector and such documents shall be returned by the collector following his examination thereof. The collector may require the applicant for a license to furnish a list showing the names and addresses of the managing officers and members of the organization or of the persons who will receive or transport imported merchandise which has not been released from customs, or a list of all such persons and their addresses. An applicant shall be required in each case to undertake to surrender promptly to the collector the identification cards of persons no longer employed by the applicant or give reasons satisfactory to the collector why such cards cannot be surrendered. The collector may also require an applicant to undertake to furnish, at such times and intervals as the collector deems necessary, a current list showing the names and addresses of the managing officers and members of the organization or of the persons who will receive or transport imported merchandise which has not been released from customs, or a list of all such persons and their addresses. A license shall be subject to suspension for failure to comply with the requirements of the two preceding sentences, or it may be revoked for sufficiently good cause.

(b) Any cartman licensed by the city or State authorities who produces evidence of good moral character and his city or State license may be licensed as a customhouse cartman.

(c) Every licensed vehicle used for customs cartage and every licensed barge, scow, or other lighter used for customs lighterage shall be conspicuously marked with the legend "Customhouse License No. _____" and the name of the person or firm to whom the license has been issued. The abbreviated legend "C.H.L. No._____" may be used if so desired.

(d) The markings prescribed by this section shall appear in letters and figures not less than 3 inches high and in the case of carts, trucks, drays, and other vehicles, such markings shall be placed on each side by painting directly onto the vehicle or by the attachment of signs bearing the required marking. However, in the case of vehicles, if such marking is not found to be practicable by the collector, he may designate some other conspicuous place upon the vehicle where the number shall appear.

(e) These markings shall be removed upon termination of the license in accordance with the provisions of the bond, customs Form 3855, or the cartman or lighterman shall be liable for the payment of liquidated damages as provided for in such bond.

(f) Customs officers shall not deliver any bonded goods to vehicles or lighters which are not properly marked.

§ 21.2 Employees' identification cards.

When required for purposes of local administration, each licensed cartman or lighterman and each employee thereof who receives or transports imported merchandise which has not been released from customs shall possess an identification card, customs Form 3873, with his photograph securely affixed thereto with glue or other adhesive substance. The card shall also bear his signature in the space provided. Such identification card shall be issued by the collector only upon application on customs Form 3078 of the licensed cartman or lighterman. The application shall be filed personally at the customhouse by the person for whom the application for the identification card is made, together with a photograph (or two if required for purposes of local administration) of such person in addition to the one to be affixed to the application. If required for purposes of local administration, the fingerprints of such person shall be taken on customs Form 3872 and at the time of the filing of the application. The identification card shall become valid when the United States customs seal has been impressed thereon, which seal shall not be impressed until after the card has been otherwise completed. If required for purposes of local administration, the identification card shall be prepared in duplicate. The original, after having impressed thereon the customs seal, shall be presented to the person in whose name the card is issued and shall be in his possession at all times when he is engaged in receiving or transporting imported merchandise. The duplicate, when required, shall be retained as an office record. It shall be the responsibility of each person to whom an identification card is issued to protect it with an appropriate transparent cover so that the face and back of the card are visible without removing the cover. Whenever the employment of the holder of an identification card is changed to another licensed cartman or lighterman, the card, supported by an application in proper form, shall be submitted promptly to the collector so that the change may be made officially on the card and on the customhouse records. The collector may authorize such exceptions to the requirements of the preceding sentence as he deems necessary and advisable when the employment of the holder of an identification card is changed only temporarily to another licensed cartman or lighterman. The card shall be submitted promptly to the collector when there is a change of address of the holder. New cards shall be issued when necessary. Should an identification card be presented by a person other than the one to whom it was issued, such card shall be forthwith confiscated. The identification card shall be surrendered when the holder thereof leaves the employment of a licensed cartman or lighterman for employment of some other character. All outstanding identification cards issued to a licensed cartman or lighterman and to the employees thereof, shall be taken up by the collector upon the suspension or termination of the license of the cartman or lighterman. An identification card shall not be issued to any person whose employment in connection with the transportation of bonded merchandise will, in the judgment of the collector, endanger the revenue.

§ 21.3 Classes of cartage.

The cartage of merchandise in customs custody is of two kinds: "government cartage," which must be done by a licensed customhouse cartman under contract or other specific authority for that purpose (except as provided for in § 21.4 (b)), and "importers' cartage," which may be done by any licensed customhouse cartman.

§ 21.4 Government cartage.

(a) The cartage of packages designated for examination at the appraiser's stores shall be done by a cartman under contract or other specific authority for that purpose. Contracts for government cartage shall be let annually after invi-

[1] "The cartage of merchandise entered for warehouse shall be done by cartmen to be appointed and licensed by the collector of customs and who shall give a bond in a penal sum to be fixed by such collector, for the protection of the Government against any loss of, or damage to, such merchandise while being so carted. The cartage of merchandise designated for examination at the appraiser's stores and of merchandise taken into custody by the collector as unclaimed shall be performed by such persons as may be designated, under contract or otherwise, by the Secretary of the Treasury, and under such regulations for the protection of the owners thereof and of the revenue as the Secretary of the Treasury shall prescribe." (Tariff Act of 1930, sec. 565; 19 U.S.C. 1565)

tations to bid have been mailed to at least 3 representative cartage companies and posted in public places. At least 30 days shall be allowed for submission of such bids. If the collector of customs deems it necessary, notice of the invitation to bid may be published in one or more local newspapers. If the collector of customs determines that a bid guarantee is necessary, the bids for such cartage shall be supported by bid bonds submitted to the collector who has solicited such bids. The contract will be let by the Commissioner of Customs on customs Form 3083 upon execution of the bond provided as a part of such contract in a sum to be fixed by the Commissioner for the faithful performance of the contract. Such contract cartman shall be licensed as a customhouse cartman. The cartage will be paid by the Government through the collector of customs for the district in which the service is rendered from the appropriation "Salaries and Expenses, Bureau of Customs."

(b) Merchandise designated for examination at an importer's premises or other place not in charge of a customs officer may be carted, lightered, or carried to any such place by the importer without a cartman's or lighterman's license, when in the judgment of the collector the revenue will not be endangered. Otherwise, such transfer shall be done by a licensed cartman, who shall be the contract cartman whenever practicable.

(c) Merchandise withdrawn from general order for regular entry shall be conveyed under such contract at the expense of the importer to the place designated by the collector for appraisement.

(d) Unclaimed merchandise shall be carted to the public stores or bonded warehouse by bonded cartmen designated by the Commissioner and under contract for that purpose. Bond on customs Form 3083, in a sum to be approved by the Commissioner, shall be required for the faithful performance of the work. The cost of such cartage shall be charged against the merchandise and collected prior to delivery under a regular entry or paid from the proceeds of sale.

(e) Seized merchandise shall be delivered to the custody of the collector by the most practicable means available to the seizing officer.

§ 21.5 Importers' cartage.

(a) Any licensed customhouse cartman may transfer merchandise at the expense of the importer or other party in interest from the importing vessel or other conveyance to bonded warehouse, from one vessel or conveyance to another, from one bonded warehouse to another, from the public stores to a bonded warehouse, from warehouse for transportation or for exportation, and from an internal-revenue warehouse for exportation under the internal-revenue laws without payment of tax.

(b) The collector may license any importer as a customhouse cartman for the purpose of carting his own imported merchandise.

(c) Importers and exporters shall designate on the entry and permit of bonded merchandise the bonded cartman or lighterman by whom they wish their merchandise to be conveyed and approval of such designation shall be indicated on the entry papers by the initials of the appropriate customs officer placed in close proximity to the designation.

(d) If an importer does not cart his merchandise or designate a licensed customhouse cartman for the purpose, it shall be carted by a public-store cartman authorized by contract or designated by the collector for that purpose, the cost thereof to be paid by the importer or owner of the merchandise before its release from customs custody.

(e) Nothing in this section shall apply to the cartage of examination packages to the place of examination, which shall be done only by the contract cartman, except as provided for in § 21.4 (b).

§ 21.6 Suspension or revocation of license of cartman or lighterman.

Inspectors or other customs officers may demand of any person claiming to be a customhouse cartman or lighterman, or employee thereof, his license or identification card for inspection. If it is not produced, or if the vehicle is not properly marked, or if the cartman or lighterman refuses or neglects to obey any proper order of the inspector or any customs order, rule, or regulation relative to the cartage or lighterage of merchandise, the collector may suspend or revoke the license of the cartman or lighterman chargeable with the offense. Such customs order or rule may include a requirement by the collector that customs licensed cartmen and lightermen shall make, keep, and promptly submit for customs inspection and examination upon request therefor such current written records relating to cartage and lighterage as may be needed for purposes of local customs administration.

§ 21.7 Supervision of cartage and lighterage.

(a) All licensed vehicles or lighters shall be subject to the control and direction of the officer having charge of the merchandise being carried.

(b) The vehicles or lighters designated for the purpose shall be present to take the merchandise when the customs officer in charge is ready to send it; otherwise, after waiting a reasonable time, such officer shall send the merchandise by any licensed vehicle or lighter available.

§ 21.8 Liability; reports of loss or damage.

(a) The cartman or lighterman conveying the merchandise shall be held liable under his bond for its prompt delivery in sound condition, or in no worse than the damaged condition noted on the cartage or lighterage ticket, customs Form 6043–A, Elliott Fisher ticket or customs Form 7502–A, 7506, or 7512, if damage is so noted. Any negligence or carelessness shall be cause for revocation of the license.

(b) Any loss or detention of bonded goods and any accident happening to a licensed vehicle or lighter while carrying them shall be immediately reported by the cartman or lighterman to the collector.

(c) The collector may cancel liquidated damages not in excess of $20,000 incurred under a cartman's bond or a lighterman's bond upon the payment of such lesser amount, or without the payment of any amount, as he may deem appropriate under the circumstances.

(Interprets or applies sec. 623, 46 Stat. 759, as amended; 19 U. S. C. 1623)

§ 21.9 Tickets for goods carted or lightered.

(a) When merchandise is carted or lightered and received in a bonded store or bonded warehouse, the representative of the proprietor shall check the goods against the ticket, customs Form 6043–A, or copy of warehouse or rewarehouse permits, customs Form 7502–A, used in lieu of a ticket, and countersign such ticket or copy of the permit. A receipt shall be taken for all goods delivered from public store or bonded store. Such receipt may be taken on the permit to release, customs Form 7500–B, on the appraiser's release ticket at the time delivery is made, or on customs Form 6043–C. Customs Form 6043–C may also be used as a receipt for goods delivered from customs custody in any other case where the collector deems such receipt necessary. In the case of withdrawals from bonded warehouse for consumption, the merchandise shall be released only to or upon the order of the proprietor of the warehouse who shall acknowledge such release on customs Forms 7505–A or 7505–B. If a receipt is taken on customs Form 6043–C for goods delivered from public store or bonded store, it shall be disposed of as if a receipt were taken on the permit to release, customs Form 7500–B, or on the appraiser's release ticket.

(b) The cartman or lighterman shall countersign the ticket, receipts, extra copy of warehouse or rewarehouse permit, or the copy of the entry or withdrawal document, used in lieu of a cartage or lighterage ticket for goods carted or lightered, customs Form 6043–A, 6043–C, 7502–A, 7506, or 7512, in the space provided as a receipt for the goods, noting any bad order or discrepancy. When available, the importing carrier's tally slip for the merchandise shall be attached to the cartage or lighterage ticket, customs Form 6043–A, or the copy of customs Form 7502–A, 7506, or 7512 used in lieu of a cartage or lighterage ticket, which accompanies the merchandise while it is being so carted or lightered in bond, for the use of customs officers only at destination.

§ 21.10 Inability to deliver merchandise.

If the warehouse is closed or the warehouseman refuses to receive the merchandise, it shall be returned to the sending inspector or deposited in the public store for safekeeping, unless otherwise ordered by the collector. The cartman shall notify such inspector of his inability to deliver the merchandise and the reason therefor. The inspector shall promptly report the facts to the collector (to the surveyor at New York) for instructions.

PART 22—DRAWBACK

ARTICLES MANUFACTURED OR PRODUCED WHOLLY OR IN PART FROM IMPORTED OR SUBSTITUTED MERCHANDISE

Sec.
22.1 Drawback allowance.
22.2 Canal Zone and Guantanamo Bay.
22.3 Application for establishment of drawback rate.
22.4 Identification of imported merchandise and ascertainment of quantities for allowance of drawback; establishment of drawback rates.
22.5 Identification of imported merchandise and ascertainment of quantities for allowance of drawback when substituted merchandise is used.
22.6 General drawback rates in effect; approval of drawback statements by collectors.
22.7 Notice of exportation.
22.8 Notice of exportation; mail shipments.
22.9 Notice of exportation; government shipments.
22.10 Numbering notices of exportation for mail or government shipments.
22.11 Amendment of notices of exportation.
22.12 Examination of merchandise.
22.13 Completion of drawback claims.
22.14 Certificates of importation and extracts.
22.15 Certificates of delivery of imported merchandise.
22.16 Certificates of manufacture and delivery; manufactured or partly manufactured articles.
22.17 Landing certificates.
22.18 Supplies for certain vessels and aircraft.
22.19 Meats cured with imported salt.
22.20 Liquidation of drawback entries.
22.21 To whom payable.

FLAVORING EXTRACTS AND MEDICINAL OR TOILET PREPARATIONS (INCLUDING PERFUMERY) MANUFACTURED FROM DOMESTIC TAX-PAID ALCOHOL

22.22 Drawback allowance.
22.23 Procedure.
22.24 Manufacturing record.
22.25 Internal Revenue certificates and extracts from such certificates.
22.26 Collector's statement of drawback due.

MERCHANDISE EXPORTED FROM CONTINUOUS CUSTOMS CUSTODY

22.27 Drawback allowed.
22.28 Continuous custody.
22.29 Entry and completion thereof.
22.30 Ascertainment of drawback.

REJECTED MERCHANDISE

22.31 Drawback allowance.
22.32 Drawback entry.
22.33 Return of merchandise to customs custody.
22.34 Acceptance of merchandise at importer's risk and expense; time limit for exportation.
22.35 Waiver of proof where the duty is less than $50.

MERCHANDISE TRANSFERRED TO A FOREIGN-TRADE ZONE FROM CUSTOMS TERRITORY

22.36 Drawback allowance.
22.37 Articles manufactured or produced in the United States.
22.38 Merchandise transferred to a foreign-trade zone from continuous customs custody.
22.39 Rejected merchandise.
22.40 To whom payable.

GENERAL REGULATIONS APPLICABLE TO ALL DRAWBACK CLAIMS

22.41 Duties subject to drawback.
22.42 Merchandise sold to United States Government.
22.43 Verification of drawback claims by Customs Agency Service.
22.44 Protests.
22.45 Signing of documents; powers of attorney.
22.46 Retention of records.

AUTHORITY: §§ 22.1 to 22.46 issued under secs. 313, 624, 46 Stat. 693, as amended, 759, sec. 101, 76 Stat. 72; 19 U.S.C. 1313, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following sections affected.

ARTICLES MANUFACTURED OR PRODUCED WHOLLY OR IN PART FROM IMPORTED OR SUBSTITUTED MERCHANDISE

§ 22.1 Drawback allowance.

Drawback of duties shall be allowed as provided for in section 313, Tariff Act of 1930, as amended,[1] on articles manufactured or produced in the United States wholly or in part with the use of imported or substituted merchandise, on meats cured with imported salt, and on vessels and aircraft built and equipped in the United States for foreign account and ownership,[2] subject to compliance with the regulations in this part.

[1] "(a) *Articles made from imported merchandise.* Upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise, the full amount of the duties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such duties shall not be so refunded upon the exportation of flour or by-products produced from wheat imported after ninety days after the date of the enactment of this act. * * *

"(b) *Substitution for drawback purposes.* If imported duty-paid merchandise and duty free or domestic merchandise of the same kind and quality are used in the manufacture or production of articles within a period not to exceed three years from the receipt of such imported merchandise by the manufacturer or producer of such articles, there shall be allowed upon the exportation of any such articles, notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported articles, an amount of drawback equal to that which would have been allowable had the merchandise used therein been imported; but the total amount of drawback allowed upon the exportation of such articles, together with the total amount of drawback allowed in respect of such imported merchandise under any other provision of law, shall not exceed 99 per centum of the duty paid on such imported merchandise.

* * * * *

"(f) *Exportation of meats cured with imported salt.* Upon the exportation of meats, whether packed or smoked, which have been cured in the United States with imported salt, there shall be refunded, upon satisfactory proof that such meats have been cured with imported salt, the duties paid on the salt so used in curing such exported meats, in amounts not less than $100.

"(g) *Materials for construction and equipment of vessels built for foreigners.* The provisions of this section shall apply to materials imported and used in the construction and equipment of vessels built for foreign account and ownership, or for the government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported.

"(h) *Time limitation on exportation.* No drawback shall be allowed under the provisions of this section unless the completed article is exported within five years after importation of the imported merchandise.

"(i) *Regulations.* Allowance of the privileges provided for in this section shall be subject to compliance with such rules and regulations as the Secretary of the Treasury shall prescribe, which may include, but need not be limited to, the fixing of a time limit within which drawback entries or entries for refund under any of the provisions of this section or section 309(b) of this Act shall be filed and completed, and the designation of the person to whom any refund or payment of drawback shall be made.

"(j) *Source of payment.* Any drawback of duties that may be authorized under the provisions of this Act shall be paid from the customs receipts of Puerto Rico, if the duties were originally paid into the Treasury of Puerto Rico." (Tariff Act of 1930, sec. 313, as amended; 19 U. S. C. 1313)

§ 22.2 Canal Zone and Guantanamo Bay.

The Panama Canal Zone and Guantanamo Bay Naval Station shall be considered foreign territory for drawback purposes.[3]

§ 22.3 Application for establishment of drawback rate.

(a) Each manufacturer or producer of articles intended for exportation with benefit of drawback (whether he is a primary, intermediate, or final manufacturer or producer of the articles, and whether or not the articles are of a character covered by a general drawback rate) shall make application prior to the exportation of such articles for the establishment of a rate of drawback. The application shall be made on customs Form 4477 or in a substantially similar form and shall be filed with the collector or deputy collector of customs in charge at any port of entry. When it is desired to export articles before an application in such form can be delivered in the regular course of the mails, a telegraphic application will be accepted, provided it shows the name of the manufacturer or producer, the name of the merchandise used, the name of the articles being exported, and the location of the factory at which the articles are manufactured or produced, and provided it is followed promptly by an application in the form prescribed herein.

(b) In the case of a vessel or aircraft on which drawback is to be claimed under section 313 (g), Tariff Act of 1930, the application prescribed in paragraph (a) of this section shall be made by the builder of the vessel or aircraft.

[2] Section 313(g), Tariff Act of 1930, applies only to materials used in the original construction and equipment of the vessels or aircraft and not to materials used for alteration or repair. The term "foreign account and ownership" contemplates only vessels or aircraft built and equipped for the account of an owner or owners residing in a foreign country and having a bona fide intention that the vessel or aircraft shall, when completed, be owned and operated under the flag of a foreign country.

[3] There is no authority of law for the allowance of drawback of customs duty on articles manufactured or produced in the United States and shipped to Alaska, Puerto Rico, Hawaii, the Virginia Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, the island of Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

(c) The manufacturer or producer may abandon his application

(c) The manufacturer or producer may abandon his application for the establishment of a rate of drawback by filing a written statement to that effect addressed to the collector or deputy collector of customs with whom the application was filed or to the investigating officer. An abandoned application may not be revived to give an earlier effective date to a rate of drawback established as the result of a subsequent application.

§ 22.4 Identification of imported merchandise and ascertainment of quantities for allowance of drawback; establishment of drawback rates.

(a) Each manufacturer or producer shall keep records which will establish, as to all articles manufactured or produced for exportation with benefit of drawback, the date or inclusive dates of manufacture or production, the quantity and identity of the imported duty-paid merchandise or of articles manufactured or produced under drawback regulations (referred to hereafter in this part as drawback products) used, the quantity and description of the articles manufactured or produced, and the quantity of waste incurred. If claim for waste is waived, the manufacturer or producer shall keep records which will establish the quantity and identity of the imported duty-paid merchandise or drawback products appearing in the articles manufactured or produced, in which case records need not be kept of either the quantity of waste incurred or of the quantity imported duty-paid merchandise or drawback products used, unless such records are necessary to enable the manufacturer or producer to establish the quantity of imported duty-paid merchandise or drawback products appearing in the articles. When the waste has a value and the manufacturer or producer has not limited his claims to the quantity of imported duty-paid merchandise or drawback, products appearing in the articles, the records shall show the factory value of the imported duty-paid merchandise or drawback products used and the factory value of the waste in order that in the liquidation of the drawback entry the quantity of imported duty-paid merchandise or drawback products used may be reduced by the quantity thereof which the value of the waste will replace. The records of the manufacturer or producer shall also show the quantity, if any, of duty-free or domestic merchandise used when such records are necessary to the determination of the quantity of imported duty-paid merchandise or drawback products used in the manufacture or production of the articles or appearing therein. In cases where two or more products result from the manipulation of the imported duty-paid merchandise, records shall be kept which will show the values of such products at the time of separation. An abstract of the records kept by the manufacturer or producer shall be filed with the drawback entry.

(b) The imported duty-paid merchandise or drawback products shall be stored in a manner which will enable the manufacturer or producer to determine, in conjunction with his storage records, the import entry, certificate of delivery, or certificate of manufacture and delivery number or numbers under which they were received, and to identify with respect to such import entry, certificate of delivery, or certificate of manufacture and delivery number or numbers the imported duty-paid merchandise or drawback products used in the manufacture or production of the articles, and to establish whether such articles were exported within 5 years after the importation of the duty-paid merchandise.

(c) The articles manufactured or produced shall be stored or marked in a manner which will preserve the identification established by means of the storage records and the records of manufacture or production.

(d) Each person required by §§ 22.15 and 22.16 (c) to certify to the delivery of imported merchandise or drawback products shall store such merchandise or products while they are in his possession and keep records which will enable him to show the quantity, identity, and description of such merchandise or products, the date on which they were received by him, the person from whom they were received, the date on which they were delivered by him to other persons, and the persons to whom such deliveries were made. These records shall be the basis of the certificates or endorsements required under § § 22.15 and 22.16 (c).

(e) Where it appears to the satisfaction of the Bureau, or of the collector in appropriate cases, that it is impracticable for the manufacturer or producer to keep records of all the information required for the determination of the drawback which may accrue to the products manufactured or produced by him, complementary records covering the information not available to the manufacturer or producer may be kept by the persons in the United States for whose account the products are manufactured or produced, and abstracts of such records shall be filed with the drawback entry.

(f) When identification is made against two or more lots of imported merchandise of different dutiable values or subject to different rates of duty, or against two or more lots of drawback products subject to different allowances of drawback, the drawback shall be based first upon the lot or lots of the lowest dutiable value, rate of duty, or drawback allowance, as the case may be, then upon the lot or lots of the next higher dutiable value, rate of duty, or drawback allowance, and so on from lower to higher until all the lots have been accounted for. The same principle shall apply in cases where the articles are commingled in storage after manufacture or production. If two or more lots of a fungible product are commingled in storage and quantities thereof are withdrawn for domestic consumption as well as for exportation with benefit of drawback, the withdrawals for domestic consumption shall be accounted for in the order in which the several lots of such product were placed in storage, exclusive of any lots in respect of which drawback has been allowed; and, in the case of the withdrawals for exportation, the drawback allowance thereon shall be based on the lot carrying the lowest allowance of drawback of any of the lots shown by the customs records to be unaccounted for at the time of withdrawal.

(g) The builder of a vessel or aircraft upon which drawback is to be claimed under section 313 (g), Tariff Act of 1930, shall keep the records provided for in this section so far as applicable. An abstract of such records shall be filed with the collector of customs at the headquarters port of the collection district in which the vessel or aircraft is built in ample time prior to the first departure of the vessel or aircraft from the United States to enable that officer to have the abstract verified by examination of the vessel or aircraft and the builder's records pertaining thereto.

(h) Each manufacturer or producer shall submit to the collector of customs at the port where his drawback entries will be filed a statement in duplicate describing the methods which he will follow and the records which he will keep for the purpose of establishing that the articles upon which drawback will be claimed have been manufactured or produced in the United States with the use of imported duty-paid merchandise within the meaning of section 313(a), Tariff Act of 1930, and that the records of identification, manufacture, or production, and storage prescribed in this section have been maintained. The statement shall be submitted to the collector through the supervising customs agent who assisted in its preparation. In the case of operations under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, the statement in triplicate shall be submitted through the supervising customs agent to the Commissioner of Customs. The statement shall contain an agreement to follow the methods and keep the records described therein with respect to all articles manufactured or produced for exportation with benefit of drawback. Provision for the use of duty-paid merchandise or drawback products, the manufacture or production af articles not specified in the application for the rate, or the use of factories not named therein may be included in the statement prepared as a result of such application.

(i) If drawback entries are to be liquidated at more than one headquarters port, two additional copies of the statement and of the investigating officer's report shall be required for each additional port. The procedure outlined in this and the preceding paragraph shall be followed, so far as applicable, when applications for amendments of drawback rates or supplemental statements or schedules or supplemental advisory schedules are filed in accordance with paragraph (o), (p), or (q) of this section.

(j) If the statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations and if the facts developed by the investigation warrant such action, the collector in a case under section 313(a), Tariff Act of 1930, or the Bureau in a case under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, will issue the rate of drawback on the articles described in the statement, except that in cases under

§ 22.6 the procedure in paragraphs (a) and (b) of that section shall be followed. When the statement in a case under section 313 (a), Tariff Act of 1930, shows that entries are to be filed at more than one port, the collector at the port first listed shall issue the rate, if that action is warranted.

(k) Each person who keeps complementary records as provided for in paragraph (e) of this section shall file a statement describing such records in accordance with the procedure prescribed for manufacturers and producers in paragraph (h) of this section. Such statement shall be subject to the provisions of paragraphs (i) and (j) of this section.

(l) Drawback entries may be filed covering articles exported on or after the date on which the application for establishment of the drawback rate was received by the collector or deputy collector of customs, but such entries shall not be liquidated until the rate has been established or in cases under § 22.6 the statement has been approved.

(m) When the rate has been established or the statement approved under § 22.6, drawback may be allowed on articles manufactured or produced in accordance therewith and exported on or after the effective date named therein provided all pertinent regulations have been complied with.

(n) In no case shall drawback be allowed on articles which were exported before the date of receipt by the collector or deputy collector of the application which resulted in the preparation of the statement on which the rate or collector's letter of approval was based.

(o) When a manufacturer or producer in whose behalf a rate of drawback has been established desires to have his rate amended under section 313(a), Tariff Act of 1930, or to change his statement filed under § 22.6 to cover additional articles, to include additional factories, to permit the use of other kinds of imported duty-paid merchandise or drawback products, to provide for a different basis for the liquidation of the drawback entries, or to cover different methods of identification, manufacture, or other changes, he shall file an application therefor with the collector or deputy collector of customs. The supplemental statement prepared as a result of such application shall be submitted through the supervising customs agent who assisted in its preparation to the collector of customs at the port where drawback entries filed under the existing rate of drawback are liquidated who shall issue the amendment, if that action is warranted. If entries are liquidated at more than one port, the supplemental statement shall identify all such ports and the collector at the port first listed shall issue the amendment. The foregoing procedure shall also apply to applications for amendments under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, but the supplemental statement in such case shall be submitted through the supervising customs agent to the Commissioner of Customs, except as provided in subparagraph (1), of this paragraph. No drawback shall be allowed on articles exported before the date on which the application was received by the collector or deputy collector unless specifically authorized by the Bureau, or by the collector in cases within the provisions of § 22.6 or of this paragraph.

(1) Supplemental statements covering operations under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, which are limited to (i) a change in location of the factory of the manufacturer or producer; (ii) an additional factory at which the methods followed and records maintained are the same as those at another factory operating under an existing drawback rate of the manufacturer or producer; (iii) a change in name of the manufacturer or producer; (iv) the succession by a sole proprietorship, partnership, or corporation to the drawback operations of a manufacturer or producer; or (v) any combination of the foregoing changes, shall be processed in the manner provided in this paragraph (o) for supplemental statements covering amendments under section 313(a), Tariff Act of 1930.

(p) When a rate of drawback provides that the drawback allowance shall be determined on the basis of a schedule filed by the manufacturer or producer showing the quantity of imported material used or appearing in each unit of finished articles, and the rate authorizes the filing of supplemental schedules showing changes in the quantity of imported materials used or appearing in each unit, or different styles or capacities of containers, such supplemental schedules shall be filed with the collector or deputy collector of customs. Drawback may be allowed on the articles covered by a supplemental schedule after it has been verified by an investigating officer and approved by the collector.

(q) In cases where the drawback allowance is determined on a quantity-used or appearing-in basis, collectors of customs may request, for the information of liquidating officers in addition to the information required to be filed with the drawback entry, a supplemental advisory schedule showing the quantity of importing merchandise used or appearing in each unit of finished articles. Such schedules shall be filed with the collector or deputy collector of customs. Drawback may be allowed on articles covered by a supplemental advisory schedule after it has been verified by an investigating officer and approved by the collector.

§ 22.5 Identification of imported merchandise and ascertainment of quantities for allowance of drawback when substituted merchandise is used.

(a) Articles manufactured or produced in accordance with section 313(b), Tariff Act of 1930, as amended, shall be subject to the applicable provision of this part and the records of the manufacturer or producer shall show:

(1) The quantity, identity, kind, and quality of the duty-paid merchandise or of other articles manufactured or produced under drawback regulations (all of the foregoing hereinafter referred to as designated merchandise) designated as the basis for the allowance of drawback on the exported articles;

(2) That such designated merchandise was used in the manufacture or production of articles by the manufacturer or producer of the exported articles within 3 years after the date on which it was received by such manufacturer or producer;

(3) That the exported articles on which drawback is claimed were manufactured or produced either with the use of (i) the designated merchandise, (ii) other merchandise of the same kind and quality as the designated merchandise, or (iii) any combination of the foregoing;

(4) That the exported articles were manufactured or produced within 3 years after the date on which the designated merchandise was received by the manufacturer or producer of the exported articles;

(5) That duty-free or domestic merchandise of the same kind and quality as the designated merchandise was used by the manufacturer or producer of the exported articles within 3 years after the date on which the designated merchandise was received by such manufacturer or producer; and

(6) The quantity of merchandise of the same kind and quality as designated merchandise, used in the manufacture or production of the exported articles.

(b) When valuable wastes are incurred in manufacture or production and the manufacturer or producer has not limited his claims to the quantity of merchandise apearing in the articles manufactured or produced for exportation with benefit of drawback, the records shall show the quantity and value of the merchandise used in the manufacture or production of the articles and the quantity and value of the waste incurred in order that the deduction provided for in § 22.4(a) may be made in liquidation.

(c) Duty-paid merchandise or articles manufactured or produced under drawback regulations which have been used at one plant of a manufacturer or producer within 3 years after the date on which such material was received by such manufacturer or producer may be designated as the basis for the allowance of drawback on articles manufactured or produced in accordance with the regulations in this part at other plants of the same manufacturer or producer.

(d) Drawback shall be allowed although the exported articles are not of the same kind and quality as the articles which were manufactured or produced with the use of the designated merchandise, provided such exported articles were manufactured or produced with the use of merchandise of the same kind and quality as the designated merchandise.

(e) For purposes of compliance with paragraph (a)(2) of this section, the use of domestic crude petroleum taken in exchange for imported crude petroleum in conformity with Presidential Proclamation No. 3279 of March 10, 1959 (3 CFR, 1959 Supp.) and the Oil Import Regulations issued thereunder (32A CFR Ch. XI), shall constitute use of the imported crude petroleum, provided no certificate of delivery on customs Form

7543 is issued covering such imported crude petroleum.

§ 22.6 General drawback rates in effect; approval of drawback statements by collectors.

(a) *Drawback statements; filing and approval at one port.* Each manufacturer or producer of articles covered by a drawback rate in this section shall submit through the supervising customs agents to the collector of customs at the port where drawback entries will be filed a statement in duplicate describing the methods used in the manufacturing or production of the products involved and setting forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of certificates of manufacture and drawback entries filed hereunder. If the statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations and if the facts developed by the investigation so warrant, the collector shall approve the statement and promptly notify the applicant, in writing, of such action.

(b) *Drawback statements; filing and approval at more than one port.* In cases where the statement provides for the filing of drawback entries at two or more ports, the statement in duplicate shall be submitted through the supervising customs agents to the collector at each of the ports named. In such case the collector at the port first listed in the statement shall approve the statement, if that action is warranted and is concurred in by the collectors at the other ports named, and shall promptly notify the applicant, in writing, of such action.

(c) *Drawback statements; supplemental.* Supplemental statements covering changes in statements filed under this section shall be handled in accordance with the provisions of paragraphs (a) and (b) of this section.

(d) *Applicability of other drawback provisions to general rates.* The allowance of drawback on articles covered by a drawback rate in this section shall be subject to compliance with the applicable provisions of this part.

(e) *Bags and meat wrappers.* Drawback may be allowed on the exportation of bags or meat wrappers manufactured with the use of imported burlap or other textile material, subject to the following special regulations:

(1) Each lot of imported material received by a manufacturer shall be given a lot number and kept separate from other lots until used. The records of the manufacturer shall show, as to each manufacturing lot or period of manufacture, the quantity of material used from each import lot and the number of each kind and size of bags or meat wrappers obtained. A certificate of manufacture shall be filed covering each manufacturing lot or period of manufacture.

(2) All bags or meat wrappers manufactured for the account of the same exporter during a specified period may be designated as one manufacturing lot and covered by one certificate of manufacture and delivery. All exported bags or meat wrappers shall be identified by the exporter with the certificate of manufacture covering their manufacture.

(3) The drawback allowance shall not exceed 99 percent of the duty paid on the imported material appearing in the exported bags or meat wrappers, unless the manufacturer desires an allowance for waste and so specifies in his statement. In such cases the records of the manufacturer shall show, in addition to the above requirements, the value of the imported material, the quantity of waste incurred in the manufacture of each lot of bags or meat wrappers, or during each period of manufacture, and the value of such waste, if any; and in liquidation the quantity of imported material which may be used as the basis for the allowance of drawback shall be reduced by the quantity of imported material which the value of the waste will replace.

(f) *Sugar and sirups; substitution* Drawback may be allowed under the provisions of section 313 (b), Tariff Act of 1930, upon the exportation of hard or soft refined sugars and sirups manufactured from raw sugar, subject to the following special regulations:

(1) The drawback allowance shall not exceed 99 percent of the duty paid on a quantity of raw sugar designated by the refiner which contains a quantity of sucrose not in excess of the quantity required to manufacture the exported sugar or sirup, ascertained in the manner hereinafter set forth.

(2) The refined sugars and sirups shall have been manufactured with use of duty-paid, duty-free, or domestic sugar, or combinations thereof, within 3 years after the date on which the designated sugar was received by the refiner, and shall have been exported within 5 years from the date of importation of the designated sugar.

(3) All granulated sugar testing by the polariscope 99.5° and over shall be deemed hard refined sugar. All refined sugar testing by the polariscope less than 99.5° shall be deemed soft refined sugar. All "blackstrap," "unfiltered sirup," and "final molasses" shall be deemed sirup.

(4) The imported duty-paid sugar selected by the refiner as the basis for the drawback claim (designated sugar) shall be of the same kind and quality as that used in the manufacture of the exported refined sugar or sirup and shall have been used within 3 years after the date on which it was received by the refiner. Duty-paid sugar which has been used at a plant of a refiner within 3 years after the date on which it was received by such refiner may be designated as the basis for the allowance of drawback on refined sugars or sirups manufactured at another plant of the same refiner.

(5) For the purpose of distributing the drawback in accordance with the provisions of section 313, Tariff Act of 1930, relative values shall be established between hard refined (granulated) sugar, soft refined (various grades) sugar, and sirups at the time of separation. The entire period covered by an abstract shall be deemed the time of separation of the sugars and sirups covered by such abstract.

(6) The sucrose allowance per pound on hard refined (granulated) sugar established by the liquidation of an abstract shall be applied to hard refined sugar commercially known as loaf, cut loaf, cube, pressed, crushed, or powdered sugar manufactured from the granulated sugar covered by the abstract.

(7) The sucrose allowance per gallon on sirup established by the liquidation of an abstract shall be applied to sirup further advanced in value by filtration or otherwise, unless such sirup is the subject of a special drawback rate.

(8) As to each lot of imported or domestic sugar used in the manufacture of refined sugar or sirup on which drawback is to be claimed, the raw stock records shall show the refiner's raw lot number, the number and character of the packages, the settlement weight in pounds, and the settlement polarization. Such records covering imported sugar shall show, in addition to the foregoing, the import entry number, date of importation, name of importing carrier, country of origin, the Government weight, and the Government polarization.

(9) The melt records shall show the date of melting, the number of pounds of each lot of raw sugar melted, and the full analysis at melting.

(10) There shall be kept a daily record of final products boiled showing the date of the melt, the date of boiling, the magma filling serial number, the number of the vacuum pan or crystallizer filling, the date worked off, and the sirup filling serial number.

(11) The sirup manufacture records shall show the date of boiling, the period of the melt, the sirup filling serial number, the number of barrels in the filling, the magma filling serial number, the quantity of sirup, its disposition in tanks or barrels, and the refinery serial manufacture number.

(12) The refined sugar stock records shall show the refinery serial manufacture number, the period of the melt, the date of manufacture, the grade of sugar produced, its polarization, the number and kind of packages, and the net weight. When soft sugars are manufactured, the commercial grade number and quantity of each shall be shown.

(13) Each lot of hard or soft refined sugar and each lot of sirup manufactured, regardless of the character of the containers or vessels in which it is packed or stored, shall be marked immediately with the date of manufacture and the refinery manufacture number applied to it in the refinery records hereinbefore provided for and shown in the abstract from such records filed in the customhouse. If all the sugar or sirup contained in any lot manufactured is not intended for exportation, only such of the packages as are intended for exportation need be marked as prescribed above, provided there is filed with the collector of customs immediately after such marking a statement showing the date of manufacture, the refinery manufacture number, the number of packages marked, and the quantity of sugar or sirup contained therein. No drawback shall be allowed in such case on any sugar or sirup in excess of the quantity shown on the statement as having been marked. If any packages of sugar

or sirup so marked are repacked into other containers, the new containers shall be marked with the marks which appeared on the original containers and a supplemental statement covering such repacking and remarking shall be filed with the collector. If sirups from more than one lot are stored in the same tank, the refinery records shall show the refinery manufacture number and the quantity of sirup from each lot contained in such tank.

(14) An abstract from the foregoing records covering manufacturing periods of not less than 28 nor more than 35 days, unless a different period shall have been authorized, shall be filed when drawback is to be claimed on any part of the refined sugar or sirup manufactured during such period. Such abstract shall be filed by each refiner with the collector of customs at New York, except as to refineries located in California, Louisiana, Puerto Rico, or Hawaii, for which the abstracts shall be filed respectively with the collectors at San Francisco, New Orleans, San Juan, or Honolulu. The collectors at the ports mentioned shall liquidate the abstracts filed with them and shall keep full and complete records of the kinds and quantities of refined sugars and sirups entitled to drawback on exportation and, upon proper request, shall issue extracts therefrom for use at other ports where drawback entries are filed covering exportations made of such refined sugars and sirups, and shall debit such records with the quantities covered by such extracts. The abstracts filed by each refinery shall be consecutively numbered by the refiner, shall be signed by the head refiner or superintendent or his first assistant, and shall be in the following form:

Abstract from the refinery records of _____, located at _____, covering sugars melted and hard and soft refined sugars and sirups manufactured therefrom during the period from _____ to _____.

RAW STOCK RECORD

Refiner's raw lot No.	Import entry No.	Packages: No.	Packages: Kind	Pounds	Polarization	By whom imported or withdrawn	Date of importation	Date of receipt by refiner	Date of melt	Importing carrier	Country of origin

MELT RECORD

Number of pounds in each lot melted		Polarization	
Lot No:	Pounds	Degrees	Pounds sucrose

SIRUP STOCK RECORDS

Date of boiling	Refinery serial manufacture No.	Quantity of sirup in gallons	Pounds sucrose contained therein

REFINED SUGAR STOCK RECORD

Refinery serial production No.	Date of manufacture	Hard or soft refined	Polarization and No.	Net weight in pounds

RECAPITULATION

Item 1. Sucrose in process at beginning of period _____ Pounds.
Item 2. Sucrose melted during period _____ Pounds.
Item 3. Sucrose in process at end of period _____ Do.
Item 4. Sucrose used in manufacture _____ Pounds
Item 5. Sucrose contained in manufacture _____ Do.

Item 1 plus item 2, minus item 3, should equal item 4.

I, _____, the _____ refiner at the _____ refinery of _____, located at _____, do solemnly and truly declare that each of the statements contained in the foregoing abstract is true to the best of my knowledge and belief and can be verified by the refinery records, which have been kept in accordance with § 22.6 (f) of the customs regulations and which are at all times open to the inspection of officers of the customs.

Date _____.

_____
(Signature)

(15) The refiner shall file with each abstract a statement, in the form prescribed, showing the average market values of the products specified in the abstract:

Market values of refined sugars and sirup for the period _____ to _____ covered by abstract No. _____:

Hard refined sugar (bulk)	Per pound.
Blackstrap or unfiltered sirup (bulk)	Per gallon.
Soft refined sugar (bulk) No. 1	Per pound.
Soft refined sugar (bulk) No. 2	Do.
Soft refined sugar (bulk) No. 3	Do.
Soft refined sugar (bulk) No. 4	Do.
Soft refined sugar (bulk) No. 5	Do.
Soft refined sugar (bulk) No. 6	Do.
Soft refined sugar (bulk) No. 7	Do.
Soft refined sugar (bulk) No. 8	Do.
Soft refined sugar (bulk) No. 9	Do.
Soft refined sugar (bulk) No. 10	Do.
Soft refined sugar (bulk) No. 11	Do.
Soft refined sugar (bulk) No. 12	Per pound.
Soft refined sugar (bulk) No. 13	Do.
Soft refined sugar (bulk) No. 14	Do.
Soft refined sugar (bulk) No. 15	Do.
Soft refined sugar (bulk) No. 16	Do.
Miscellaneous	

I, _____, _____
(Official capacity)
of the _____, do solemnly
(Refinery)
and truly declare that the values shown above are true to the best of my knowledge and belief, and can be verified by our records.

Date _____.

_____
(Signature)

(16) At the end of each calendar month the refiner shall furnish to the collector of customs at the port where the abstract is filed a statement showing the actual sales of sirup and the average market values of refined sugars for the calendar month.

(17) In the liquidation of abstracts the following example shall be followed in determining the sucrose allowance to be applied to the various products:

EXAMPLE OF LIQUIDATION

	Pounds	Polarization	Pounds, sucrose
Stock in process at beginning of period	3,650,539	83.43	3,045,645
Raw sugar melted during period	73,186,789	96.65	70,735,032
			73,780,677
Less stock in process at end of period	3,632,470	87.59	3,181,680
Sucrose actually used in manufacture			70,598,997

1 Manufacture	2 Polarization	3 Market value	4 Sucrose allowance per unit	5 Total sucrose allowance
	Degrees	*Per pound*	*Pounds*	*Pounds*
Hard refined sugar 63,192,240	100.00	$0.053	1.04051625	65,752,553
Soft refined:				
No. 1 14,903	98.12	.053	1.04051625	15,507
No. 2 11,060	97.48	.052	1.02088	11,299
No. 3 5,500	94.40	.0505	.991435	5,452
No. 4 4,500	93.84	.05	.981619	4,419
No. 5 19,900	90.67	.0495	.971803	19,334
No. 6 299,933	90.14	.049	.961987	288,539
No. 7 453,762	88.82	.0485	.952171	432,052
No. 8 1,887,936	87.86	.048	.942354	1,779,108
No. 9 342,591	87.56	.0475	.932538	319,477
No. 10 489,098	87.31	.047	.922722	451,301
No. 11 130,800	86.32	.0465	.912906	119,403
No. 12 210,100	86.41	.046	.90309	189,739
No. 13 174,622	91.19	.0455	.893273	155,985
No. 14 539,158	85.45	.0455	.893273	481,615
Sirup (gallons) 214,687	(1)	*Per gallon* .136	2.67	573,214
Total				70,598,997

[1] 4 pounds per gallon.

Item 1. Sucrose in process at beginning of period	Pounds.	Item 3. Sucrose in process at end of period	Do.

Total market value of production (column 1 times column 3), $3,596,049.50. Sucrose used (70,598,997 pounds) divided by market value ($3,596,049.50) equals pounds sucrose allowable per $1 of market value, or 19,632,382 pounds sucrose; this factor multiplied by the market values in column 3 will produce the factors in column 4, which are the pounds of sucrose to be allowed per pound of sugar or gallon of sirup manufactured under this abstract, less 1 percent thereof. Quantities in column 1 multiplied by the quantities in column 4 should equal the quantities in column 5.

TEST FOR LOSS

Sucrose in manufacture (column 1 times column 2) ------ 68,077,389
Sucrose used in manufacture ------ 70,598,998 = 96.43% or 3.57% loss.

(18) The certificate of delivery shall be in the following form:

No. ------ CERTIFICATE OF DELIVERY—SUGAR AND SIRUP

Certificate of delivery of ------ manufactured by ------ under abstract No. ------ filed at the port of ------.

Description	Quantity	Polarization

DESIGNATION OF IMPORTED SUGAR

Import entry No.	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity of raw sugar (pounds)	Polarization	Sucrose) (pounds

I, ------, the ------ of ------, located at ------, declare that the sugar (or sirup) described in the within certificate of delivery was manufactured by said company at its refinery at ------ and is part of the sugar (or sirup) covered by abstract No. ------, filed at the port of ------ and was delivered to ------, 19----, and that no other certificate of delivery has been issued covering the above merchandise; that the refinery and other records of the company verifying the statements contained in said abstract are now and at all times hereafter will be open to inspection by officers of the customs. I further declare that the above-designated imported sugar (upon which the duties have been paid) was received by said company on ------ and was used in the manufacture of sugar and sirup on------.

Dated------.

(Signature)

(19) The drawback entry shall be in the following form:

Drawback Entry for Sugars and Sirups

UNITED STATES CUSTOMS SERVICE,

Port of ------, 19----.

Entry for drawback on sugars and sirups exported under notices of exportation, filed by ------, said notices and the merchandise covered thereby being particularly set forth below, together with the designation of imported raw sugar containing sucrose of the quantity used in the manufacture of such merchandise, based on the relative value of the refined sugars and sirups manufactured during the period covered by abstract No. ---- (customs No. ----) on file with the collector of customs at the port of ------. Drawback claimed under § 22.6 (f) of the customs regulations.

No. of notice of exportation	Exporting carrier	Date of clearance	Name of shipper	No. of packages	Quantity and description of exported merchandise

DESIGNATION OF IMPORTED SUGAR

No. of import entry	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity sugar (pounds)	Polarization	Sucrose (pounds)	Certificate of delivery No.

I, ------, the------ of ------, located at ------ declare that the sugar (or sirup) described in this entry, was manufactured by said company at its refinery at ------ and is part of the sugar (or sirup) covered by abstract No. ------, filed at the port of ------; that the refinery and other records of the company verifying the statements contained in said abstract are now and at all times hereafter will be open to inspection by officers of the customs. I further declare that the above-designated imported sugar (upon which the duties have been paid) was received by said company on ------ and was used in the manufacture of sugar and sirup during the period covered by abstract No. ------, customs No. ------, on file with the collector of customs at ------.

I further declare that the sugar or sirup specified herein was delivered to the above-named shippers.

Dated------.

(Signature)

(20) The declaration of exportation required on customs Form 7575 shall be made a part of the drawback entry.

(21) When an extract from an abstract from refinery records is required for use at a port other than the port where the abstract is liquidated, the extract shall be in the following form:

Extract from Abstract from Refinery Records of Sugar or Sirup Intended for Exportation with Benefit of Drawback

UNITED STATES CUSTOMS SERVICE

District No. ------, Port of ------, Collector's Office, ------, 19----.

This is to certify that there is on record in this office an abstract from refinery record No. ------, customs No. ------, of ------, located at ------, covering the following-described merchandise manufactured during the period from ------, to ------, for which certificate of delivery No. ------ to ------ has been filed in this office.

Description	Quantity	Sucrose allowance per unit (1 percent to be deducted in duty statement on drawback entry)

SUGAR DESIGNATED BY THE REFINER AS THE BASIS FOR THE ALLOWANCE OF DRAWBACK

No. of import entry	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity of sugar (pounds)	Polarization	Sucrose	Certificate of delivery

Date of receipt by refiner of above sugar ------.

Date of use by refiner of above sugar ------.

Date of delivery of refined sugar or sirup ------.

Delivered to ------,
Deputy Collector.

------,
Comptroller.

To be used at the port of ------.

(22) In cases where the sugar designated on the certificate of delivery has been imported at the port where the extract is issued, the collector at that port shall issue a certificate of importation for the designated sugar on customs Form 5265 and forward it to the collector of customs at the port where the extract from the refinery abstract is to be used.

(g) *Linseed oil, linseed oil cake, and linseed oil meal.* Drawback may be allowed under the provisions of section 313 (a), Tariff Act of 1930, upon the exportation of linseed oil, linseed oil cake, and linseed oil meal, manufactured with the use of imported flaxseed, subject to the following special regulations:

(1) The mill zones hereinafter referred to embrace:

New York Mill Zone: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, New York (except Buffalo), New Jersey, Pennsylvania (except Pittsburgh), Delaware, Maryland, and Rhode Island.

Buffalo Mill Zone: Buffalo, N. Y., Pittsburgh, Pa., West Virginia, Ohio, Indiana, Michigan, and Kentucky.

Chicago Mill Zone: Minnesota, South Dakota, Wisconsin, Illinois, Iowa, Nebraska, Missouri, and Kansas.

West Coast Mill Zone: Washington, Idaho,

Oregon, California, Nevada, Utah, and Arizona.

(2) Except as provided for in subparagraph (3) of this paragraph, the manufacturing period (hereinafter referred to as the abstract period) of each crusher shall be coextensive with the withdrawal of one or more entire lots or cargoes of imported flaxseed, from the storage tanks and the manufacture into oil and cake of the flaxseed so withdrawn. A cut-off shall be made at the storage tanks after the withdrawal of one or more complete lots or cargoes, and all the seed from such lots or cargoes in process or contained in bins, screens, conveyors, cookers, presses, expellers, etc., shall be manufactured during the abstract period in order that there may be no overlapping of seed and product from one abstract period to another. If any seed withdrawn from the storage tanks during any abstract period is disposed of without being manufactured into the products specified in this paragraph, it shall be reported on the certificate of manufacture provided for in subparagraph (4) of this paragraph. The quantity of seed so withdrawn shall be stated according to its condition as imported.

(3) Should it become necessary for a crusher to terminate an abstract period before the complete withdrawal from the storage tanks of any lot or cargo of imported flaxseed contained therein, a cut-off shall be made at the storage tanks and the quantity of imported flaxseed remaining in the tanks after the cut-off shall be determined by weighing, gauging, or measuring under the supervision of a customs officer. Upon application to the collector of customs in whose district the plant of the crusher is located, a customs officer shall be assigned for this purpose. All flaxseed withdrawn from storage before the cut-off shall be manufactured into oil and cake or otherwise disposed of before a new abstract period is begun.

(4) At the conclusion of each abstract period during which a crusher manufactures oil, cake, or meal for exportation with benefit of drawback, such crusher shall file a certificate of manufacture, constituting an abstract of his manufacturing records, with the collector of customs at any one of the following ports: New York, N. Y.; Philadelphia, Pa.; Chicago, Ill.; Cleveland, Ohio; San Francisco, Calif.; or Seattle, Wash.

(5) Such certificate shall show the inclusive dates of manufacture; the quantity, identity, and value (if valuable wastes occur) of the imported flaxseed or screenings, scalpings, chaff, or scourings used; the quantity by actual weight and value, if any, of the material removed from the foregoing by screening prior to crushing; the quantity and kind of domestic merchandise added, if any; the quantity by actual weight or gauge and value of the oil, cake, and meal obtained; and the quantity and value, if any, of the waste incurred. The quantity of imported flaxseed, screenings, scalpings, chaff, or scourings used or of material removed shall not be estimated nor computed on the basis of the quantity of finished products obtained, but shall be determined by actually weighing the said flaxseed, screenings, scalpings, chaff, scourings, or other material; or, at the option of the crusher, the quantities of imported materials used may be determined from customs weights, as shown by the import entry covering such imported materials, and the Government weight certificate and certificate of analysis issued at the time of entry. The entire period covered by an abstract shall be deemed the time of separation of the oil and cake covered thereby.

(6) The drawback allowance shall not exceed 99 percent of the duty paid on the quantity of imported flaxseed, screenings, scalpings, chaff, or scourings used in the manufacture of the exported products, less the quantity of such imported materials which the value of the waste will replace, as shown by the abstract of the manufacturing records provided for above.

(7) The drawback allowance shall be distributed to the oil and cake in accordance with their relative values at the time of separation, and the drawback allowance on the processed oil and on the oil meal shall be the drawback accruing to the raw oil and to the cake from which the processed oil and the meal, respectively, were produced.

(8) In order that the relative values may be determined for use as the bases for the distribution of the drawback to the several products as prescribed in section 313 (a), Tariff Act of 1930, each crusher operating under the provisions of this paragraph shall file with the collector of customs, New York, N. Y., within 10 days after the 1st and 15th days of each month a statement in duplicate showing the quantity of oil in barrels of 375 pounds each and the quantity of cake or meal in tons of 2,000 pounds delivered each day from the mill during the preceding period (that is, 1st to 15th or 16th to the last day of the month) to points in the zone in which the mill is located. The total daily quantity and value of such products delivered with drawback not reserved by the crusher and the total daily quantity of such products delivered with drawback reserved by the crusher shall be stated separately. The value of oil shall be shown on the carload raw basis in barreled condition, that is, if the oil was processed, the processing differential shall be deducted, or, if it was delivered in tank wagons or tank cars, the barreling differential shall be added. The values of cake and meal shall be shown on the carload basis in bags. The values of oil cake, and meal, as outlined above, shall be reported on the basis of the invoices of sale, without deduction for the cost of containers and other charges.

(9) Upon receipt of the statements from the crushers concerned, the collector of customs at New York shall determine and declare the daily average values of the raw linseed oil and linseed cake manufactured by the crushers in each mill zone. Such daily average values shall be ascertained in the following manner:

(i) The total quantity of oil delivered on a certain day by all crushers in a given mill zone to points within that zone, with drawback not reserved by the crushers, divided into the amount of money received by the crushers for such oil (the quotient to be extended to 6 decimal places), less the amount deducted for the cost of packing and other charges incurred after separation, shall be the daily average value of such oil.

(ii) The total quantity of cake delivered on a certain day by all crushers in a given mill zone to points within that zone, with drawback not reserved by the crushers, divided into the amount of money received by the crushers for such cake (the quotient to be extended to 6 decimal places), less the amount deducted for the cost of packing and other charges incurred after separation, shall be the daily average value of such cake.

(iii) The total quantity of meal delivered on a certain day by all crushers in a given mill zone to points within that zone, with drawback not reserved by the crushers, divided into the amount of money received by the crushers for such meal (the quotient to be extended to 6 decimal places), less the amount deducted for the cost of packing, grinding, and other charges necessary to reduce such meal to a cake basis, shall be the daily average value of the cake from which such meal was ground.

(iv) The weighted average of the two values determined in accordance with subdivisions (ii) and (iii) of this subparagraph shall be the daily average value of the cake concerned.

(v) If no deliveries of oil, cake or meal are made to a point in the mill zone on a certain day, the last daily average value established by the collector at New York for that product shall be used as the value thereof for the day on which no deliveries were made.

(vi) The amount to be deducted from the delivered value of oil cake, or meal by the collector at New York to make relative value at the point of separation shall be an average amount for each zone obtained by averaging the cost of packing and other charges of all crushers within the zone concerned. In order that this deduction may be made, each crusher shall furnish the collector at New York, from time to time as the collector may request, a statement showing such costs and charges.

(10) After the close of each calendar month the collector at New York shall prepare for each mill zone a statement showing the daily average values of cake and oil ascertained as above, and shall transmit to the collectors at Philadelphia, Chicago, Cleveland, San Francisco, and Seattle copies of such statements as cover zones in which crushers who file abstracts at the respective ports are located.

(11) To ascertain the relative values of the cake and oil for the period covered by an abstract, the collector of customs concerned shall add the daily average values for his zone of cake and oil, respectively, as furnished by the collector at New York, for each day of the period covered by the abstract and shall divide the totals thus obtained by the number of such daily average values.

(12) Upon the application of any crusher operating under this paragraph,

the collector of customs at any of the

manufactured or produced by any one or

the collector of customs at any of the above-mentioned ports is authorized to advise such crusher of the daily average values of cake and oil established by the collector of customs at New York for the zone in which the crusher is located, and of the relative values of such products as determined for the period covered by an abstract filed by such crusher with the collector to whom application has been made.

(13) If a crusher desires to file his abstract at one of the above-enumerated ports not located within the mill zone in which his plant is situated, the daily average values of the oil and cake for the zone in which the plant of the crusher is situated shall be certified by the collector at New York to the collector at the port where such abstract is to be filed, on the request of such crusher; and the collector at such port shall ascertain the relative values of the products for the period covered by the abstract in the manner prescribed in subparagraph (11) of this paragraph.

(14) If the records of the manufacturer do not show the quantity of oil cake used in the manufacture of the exported oil meal and the quantity of oil meal obtained, the net weight of the oil meal exported shall be regarded in liquidation as the weight of the oil cake used in the manufacture thereof.

(15) If various tanks are used for the storage of imported flaxseed, the mill records shall show by a definite designation the tank or tanks in which each lot or cargo is stored.

(16) If raw or processed oil manufactured during different periods of manufacture is intermixed in storage, a record shall be maintained showing the quantity, identity, and kind of oil so intermixed. Identification shall be made in accordance with § 22.4 (f). If oil so intermixed is delivered to manufacturers who use the oil in the manufacture of articles to be exported, the certificate of delivery shall show the certificates of manufacture from which such oil may have originated.

(17) If linseed cake or meal is placed in storage, it shall be segregated by abstract periods or marked to show the period in which it was manufactured.

(h) *Piece goods.* Drawback may be allowed under the provisions of section 313 (a), Tariff Act of 1930, upon the exportation of bleached, mercerized, printed, dyed, or redyed piece goods manufactured or produced by any one or a combination of the foregoing processes with the use of imported or drawback woven piece goods, subject to the following special regulations:

(1) The records of the manufacturer or producer shall show, as to each lot of piece goods manufactured or produced for exportation with benefit of drawback, the lot number and the date or inclusive dates of manufacture or production, the quantity, identity, and value of the imported or drawback piece goods used, the condition in which imported or received (whether in the gray, bleached, dyed, or mercerized), the working allowance specified in the contract under which they are received, the process or processes applied thereto, and the quantity and description of the piece goods obtained.

(2) The records also shall show the yardage lost by shrinkage or gained by stretching during manufacture, and the quantity of remnants resulting and of spoilage incurred.

(3) Further, the records shall show the quantity of rag waste incurred and its value. In instances where it is impracticable to account for the actual quantity of rag waste incurred, it shall be assumed in liquidation that such rag waste constituted 2 percent of the piece goods put into process.

(4) The piece goods manufactured or produced hereunder may also be subjected to one or more finishing processes.

(5) An abstract of the manufacturing or production records shall be filed with the drawback entry.

(6) The quantity of piece goods upon which drawback may be allowed shall be computed as follows: Deduct from the quantity of piece goods received the quantity of remnants and spoilage, if any, incurred, the proper allowance to be made for shrinkage or stretch, of any, occurring during manufacture or production. Reduce the remaining quantity by the quantity thereof which the value of the rag waste will replace. When necessary for the purposes of liquidation, the value of the imported or drawback piece goods used shall be furnished by the owner.

(7) The drawback allowance shall not exceed the duty paid, less 1 per centum thereof, on the net quantity of finished piece goods exported, determined as above, as shown by the abstract of the manufacturing or production records; or, in the case of piece goods manufactured or produced hereunder with the use of drawback piece goods, the drawback accruing to such net quantity, as established by the abstract of the manufacturing or production records and the certificates of manufacture and delivery covering the drawback piece goods concerned.

(8) Drawback shall not be allowed hereunder when the process performed results only in the restoration of the articles to their condition at the time of importation.

(i) *Fur skins and fur skin articles.* Drawback may be allowed under the provisions of section 313 (a), Tariff Act of 1930, upon the exportation of dressed, redressed, dyed, redyed, bleached, blended, or striped fur skins or fur skin articles manufactured or produced by any one or a combination of the foregoing processes with the use of fur skins or fur skin articles, such as plates, mats, sacs, strips, and crosses, imported in a raw, dressed, or dyed condition, subject to the following special regulations:

(1) The records of the manufacturer or producer shall show, as to each lot of fur skins and fur skin articles manufactured or produced for exportation with benefit of drawback, the lot number and the date or inclusive dates of manufacture or production, the quantity, identity, and description of the imported merchandise used, the condition in which imported, the process or processes applied thereto, the quantity and description of the finished articles obtained, and the quantity of imported pieces rejected, if any, or spoiled in manufacture or production.

(2) An abstract of the manufacturing or production records shall be filed with the drawback entry.

(3) The drawback allowance shall not exceed the duty paid, less 1 per centum thereof, on the quantity of imported merchandise used in the manufacture or production of the exported articles, as shown by the abstract of the manufacturing or production records. The quantity of imported merchandise used shall be determined by deducting from the quantity of fur skins or fur skin articles put into manufacture or production the quantity of rejects and spoilage incurred, if any.

(4) Drawback shall not be allowed hereunder when the process performed results only in the restoration of the articles to their condition at the time of importation.

§ 22.7 Notice of exportation.

(a) A notice of exportation in triplicate,[4] on customs Form 7511, for each shipment of merchandise on which drawback is to be claimed shall be filed by the exporter or his agent with the collector of customs at the port at which the shipment is to be exported from the United States. Such notice shall show the name of the exporting vessel or other carrier, the number and kind of packages and their marks and numbers, the description of the merchandise and its weight (gross and net), gauge, measure, or number, the name of the exporter, and the name of the port where the drawback entry is to be filed. If the merchandise is to be exported in railroad cars, a notice of exportation shall be filed for each car.

(b) Except as provided for in §§ 22.8 and 22.9, the notice of exportation shall be filed with the shipper's export declaration, or, if filed subsequently, it shall be filed within 3 years after exportation and shall state the number, if any, and date of the shipper's export declaration. One shipper's export declaration may cover several notices of exportation. A notice of exportation not filed in the time and manner herein specified shall not be accepted unless its acceptance is specifically authorized by the Bureau.

(c) Upon receipt of the notice of exportation, the collector shall assign a number thereto which shall be stamped or endorsed on the original and each copy of the notice. If a number has been assigned to the corresponding shipper's export declaration, the same number shall be assigned to the notice of exportation. If a shipper's export declaration covers more than one notice of exportation, one of the notices shall be assigned the same number as that assigned to the shipper's export declaration; the remaining notices shall also be assigned the same number but each notice shall be further identified by the addition of an alphabetic designation beginning with the letter "A". However, if no number has been assigned to the shipper's

[4] If the exporter desires, he may file an extra copy of the notice of exportation with the collector for numbering and return to him for use for reference or other purposes in pursuing his claim.

export declaration, each notice of exportation shall be separately numbered. On one of the copies of the notice, the collector shall certify (1) as to the exportation of the merchandise as shown by the records of his office, and (2) as to the name of the exporter as shown by the shipper's export declaration covering the merchandise. The collector shall return such copy and one uncertified copy to the exporter, or to the person designated by the exporter, for subsequent filing with the drawback entry. Whenever the collector is unable to certify to the exportation of the merchandise covered by the notice of exportation, he shall return two copies of the notice to the exporter or to the person designated by the exporter, with a statement of the facts in the case.

(d) When drawback is to be claimed under section 313 (a), (b), or (g), Tariff Act of 1930, on an aircraft departing under its own power from the United States, or on merchandise exported by aircraft, the notice of exportation shall be filed in the manner prescribed herein at the port where the shipper's export declaration is filed.

(e) When merchandise is laden on a vessel for transshipment at a domestic port outside the continental United States,[5] the notice of exportation shall be filed with the collector of customs at the port where the merchandise was last transshipped for its foreign destination (the place where the shipper's export declaration is filed).

§ 22.8 Notice of exportation; mail shipments.

(a) If the merchandise on which drawback is to be claimed is to be exported by mail or parcel post, the notice of exportation shall be prepared in quadruplicate. Three copies shall be filed with the postmaster at the place of mailing, and the merchandise shall be delivered to the postmaster at the same time and mailed under his supervision. The fourth copy shall be retained by the exporter for subsequent filing with the drawback entry. Such notices shall be numbered by the exporter in accordance with § 22.10.

(b) Each package to be exported shall have stamped or written thereon a waiver of the right to withdraw the package from the mails, signed by the exporter, on customs Form 3413, or in a substantially similar form.

(c) After the packages have been mailed, the postmaster will execute his certificate on one of the copies of the notice of exportation and return such copy to the person who presented the notice, for subsequent filing with the drawback entry. One copy of the notice will be postmarked by the postmaster and mailed by him to the collector of customs at the port where the notice shows the drawback entry is to be filed, and the other copy will be retained by the postmaster as his record of the transaction.

§ 22.9 Notice of exportation; government shipments.

(a) In the case of a shipment by a department, branch, or agency of the United States Government, if no shipper's export declaration is required, the notice of exportation for such a shipment shall be prepared in quadruplicate, whether the drawback is to be claimed by such department, branch, or agency, or by the supplier of the merchandise. Three copies shall be filed by the exporter or his agent with the government officer in charge of transportation at the port of exportation. The fourth copy shall be retained by the exporter for subsequent filing with the drawback entry. Such notices shall be numbered by the exporter in accordance with § 22.10.

(b) The notice of exportation shall bear an endorsement in the following form, to be placed thereon by the exporter, for execution by the government transportation officer at the port of exportation:

CERTIFICATE OF EXPORTATION

This is to certify that the merchandise described herein was laden at the port of _____, for _____;
(foreign destination—actual or code)
that the exporting conveyance departed from the above-named port on _____;
(Date)
and that _____ was
(Name)
the actual shipper of the merchandise.

_____
(Name)

_____
(Rank, organization, title)

_____
(Date)

(c) After the exporting vessel or other conveyance has departed, the government transportation officer at the port of exportation will execute his certificate on one of the copies of the notice of exportation and return such copy to the exporter, or to the person designated by the exporter, for subsequent filing with the drawback entry. One copy of the notice of exportation will also be signed by the government transportation officer to indicate its official status and mailed by him to the collector of customs at the port where the notice shows the drawback entry is to be filed, and the other copy will be retained by the government transportation officer as his record of the transaction.

§ 22.10 Numbering notices of exportation for mail or government shipments.

Notices of exportation covering government shipments or shipments by mail shall be given, for identification purposes, a number by the exporter in a series beginning with No. 1 for each 12-month period commencing on July 1 of each year. One series of numbers shall be used by each exporter to cover both types of shipments made by him.

§ 22.11 Amendment of notices of exportation.

At any time within the 3-year period prescribed for the completion of the drawback claim, a notice of exportation may be amended if the collector is satisfied as to the correctness of the amendment. Every application for amendment and its supporting evidence shall be in writing and submitted to the collector of customs at the port where the drawback entry is filed.

§ 22.12 Examination of merchandise.

The collector may examine any merchandise being exported with benefit of drawback if he is not satisfied as to the bona fides of the shipment.

§ 22.13 Completion of drawback claims.

(a) A drawback entry and certificate of manufacture shall be filed within 3 years after the date the articles are exported. Such entry and certificate shall be filed on customs Form 7575 except in cases covered by paragraph (c) or (e) of this section. If such entry and certificate are filed on customs Form 7575, such form shall be filed in duplicate; and, if the entry is filed on customs Form 7573, only one copy (the original) need be filed, provided that an additional copy of either form may be required by the collector of customs if he deems such additional copy necessary for administrative use in his office. The copy of the notice of exportation certified by the collector and one uncertified copy shall be filed with the entry. The certified copy of the notice of exportation shall show that the merchandise was shipped by the person making the drawback entry, or shall bear an endorsement of the person in whose name the merchandise was shipped, showing that the person making entry is authorized to make it and to receive the drawback. One entry may cover several shipments. All documents necessary to the liquidation of the entry, including those issued by one customs officer to another, shall be filed or applied for, as the case may require, within the 3-year period prescribed above, except that any required landing certificate shall be filed within the time prescribed in § 22.17 (c). Claims not completed within the 3-year period prescribed above shall be treated as abandoned and no extension will be granted, unless it is established that failure to complete the claim within 3 years was occasioned by action of a responsible customs officer.

(b) A statement in duplicate of the papers filed, showing the dates on which official documents were applied for, may be presented with the drawback entry. When such statement has been verified as to the papers filed, one copy shall be receipted and returned to the claimant and the other copy attached to the drawback entry. When a landing certificate is required, it shall be furnished prior to the liquidation of the entry.

(c) If certificates of manufacture are filed prior to the filing of the entry, they shall be referred to in the entry by the official number in lieu of the particulars of importation and manufacture. In such cases the entry shall be on customs Form 7573.

(d) If the drawback entry is filed at a port other than that at which the certificate of manufacture is on file, the collector at the port where the certificate is on file, after liquidation and at the request of the person filing the certificate or the person to whom such merchandise was delivered, as shown by said certificate, shall issue an extract there-

[5] Such as San Juan, P. R., or Honolulu, Hawaii.

from on customs Form 4537 for use at

was filed. Such application shall be

§ 22.15 Certificate of delivery of

from on customs Form 4537 for use at the port where the entry is filed. Such extract shall be transmitted to the collector at the latter port and, for the purpose of identification, reference may be made thereto as in the case of an original certificate.

(e) When completely manufactured articles are purchased for exportation and the drawback is to be paid to the purchaser, the entry shall be on customs Form 7573 and be accompanied by a certificate of manufacture and delivery on customs Form 7577, if such a certificate is not already on file.

(f) In the case of a vessel, or aircraft upon which drawback is to be claimed under section 313 (g), Tariff Act of 1930, there shall be filed with the drawback entry a copy of the contract under which the vessel or aircraft was built or the pertinent part thereof showing that it was built for foreign account and ownership. In the case of a vessel, except a warship, there shall also be filed a certificate of clearance for the foreign port, if the vessel is cleared from a port other than that at which the entry is filed, and a certified copy of the registry certificate or, in lieu thereof, a certificate of the consul of the foreign nation to which the vessel belongs, showing that the said vessel has been documented under the flag of that country. In the case of warships, the certificates of clearance and foreign documentation shall not be required.

(g) A drawback entry may be corrected, or a timely supplemental entry filed, only when permission is granted by the collector. Corrections or amendments permitted must be certified by the appropriate parties.

§ 22.14 Certificates of importation and extracts.

(a) If the merchandise identified in the drawback entry or certificate of manufacture was not imported at a port within the customs collection district where the entry or certificate of manufacture is filed, the collector of customs of the district where the merchandise was imported shall upon application by the importer or the party to whom the delivery of such merchandise has been certified, issue to the collector at the port named a certificate of importation on customs Form 5265 bearing a notation showing the date on which the application for the issuance of the certificate was filed. Such application shall be made on customs Form 5263 or in a substantially similar form.

(b) If any portion of the merchandise covered by the certificate of importation is used in the manufacture of articles covered by a drawback entry or certificate of manufacture on file at a port other than that at which the certificate is on file, the collector holding the certificate, on written request, shall issue an extract on customs Form 5267 for use at such other port and transmit it to the collector at that port.

(c) In the case of articles manufactured with the use of products withdrawn from a bonded smelting or refining establishment, the collector at the port of withdrawal shall issue, in lieu of certificates of importation, certificates showing the date of importation, date of withdrawal, name of person making the withdrawal, quantity and character of the product, and rate and amount of duty paid.

(d) No certificate of importation shall be issued until the import entry covering the merchandise to be certified shall have been liquidated, the liquidated duties have been paid, and such liquidation shall have been made final by operation of law or by acceptance in writing by the importer. Such certificate and any extract therefrom shall show the name of the person to whom delivery has been certified and the date of delivery in case a certificate of delivery has been filed with the collector issuing such certificate or extract.

(e) When a certificate of manufacture covering bags or meat wrappers is filed showing transfer of the bags or meat wrappers after manufacture, the exporter may present an application addressed to the collector of customs at the port where the burlap or other textile material was imported, requesting the issuance of a certificate of importation, and the collector of customs at the port where the certificate of manufacture is filed shall indicate on the application, before forwarding it to the collector at the port of importation, that the proper certificate of delivery is endorsed on the certificate of manufacture to the person requesting the certificate of importation, thus obviating the necessity of filing further certificates of delivery with the collector of customs who issues the certificate of importation.

§ 22.15 Certificates of delivery of imported merchandise.

(a) When the merchandise used in the manufacture of the exported articles was not imported by the manufacturer of the articles, no drawback shall be allowed until there has been filed with the collector at the port where the drawback entry is filed a certificate of delivery in duplicate on customs Form 7543 or official evidence of the existence of such a certificate filed at another port, fully describing the merchandise delivered and tracing it from the custody of the importer to the custody of the manufacturer. Reference may be made to this certificate by the manufacturer in his certificate of manufacture in lieu of the particulars of importation, provided the certificate covers but one importation.

(b) If the merchandise was not delivered directly from the importer to the manufacturer, each intermediate transfer shall be shown on the certificate of delivery by a certificate of the person through whose possession the merchandise passed.

(c) When the imported merchandise is covered by a consumption entry and the consignee named therein has declared another person to be the actual owner, such consignee shall be considered the importer for drawback purposes irrespective of whether an owner's declaration was filed in accordance with section 485 (d), Tariff Act of 1930, and a certificate of delivery from such consignee to the person to whom delivery was made shall be required.

(d) The person in whose name merchandise is withdrawn from bonded warehouse shall be considered the importer for drawback purposes, and certificates of delivery covering prior transfers of such merchandise while in bonded warehouse shall not be required.

§ 22.16 Certificates of manufacture and delivery; manufactured or partly manufactured articles.

(a) When the imported merchandise used has passed through some process of manufacture before delivery and the wholly or partly manufactured article is used in the manufacture of some other article for exportation, or when completely manufactured articles are purchased for exportation without further manipulation, a certificate of manufacture and delivery shall be filed on customs Form 7577. Such certificate shall be required whether the drawback is claimed by the exporter or has been reserved by the manufacturer.

(b) In drawback entries covering the exported articles, reference may be made to such certificates in lieu of stating the particulars of importation and manufacture, except when the article or merchandise has been further manipulated before exportation, in which event such additional manufacturing steps shall be covered by a proper certificate of manufacture.

(c) Any intermediate transfer of such manufactured articles shall be certified on the certificate of manufacture and delivery.

(d) If the drawback entry is filed at a port other than that at which the certificate of manufacture and delivery is on file, an extract may be issued on customs Form 4537.

§ 22.17 Landing certificates.

(a) A landing certificate shall be required (1) whenever the collector at the port of exportation or at the port where the drawback entry is filed shall have reason to believe that the shipment is not a bona fide exportation, (2) when the Bureau specifically directs that a landing certificate shall be produced, (3) when a landing certificate is otherwise required by law or regulation, and (4) for every aircraft which departs from the United States under its own power if drawback is claimed on the aircraft or any part thereof. Landing certificates for aircraft shall show the exact time of landing of the aircraft in the foreign country and describe the aircraft or parts thereof on which drawback is claimed in sufficient detail to enable the collector to identify them with the notice of exportation.

(b) Whenever a landing certificate is required, it shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that such country has no customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of unlading.

(c) When a landing certificate is specially required by the collector or the Bureau, but not otherwise, reasonable notice in writing of such requirement shall be given by the collector to the exporter or his agent. The landing cer-

tificate shall be filed within 1 year from the date of the notice unless an extension of such period is specifically authorized by the Bureau.

(d) When a landing certificate is required by the collector, other satisfactory evidence of the foreign landing may be accepted in lieu of the landing certificate.

(e) When a landing certificate is required and cannot be produced, an application for its waiver may be made to the Bureau through the collector within the time required for filing the certificate, accompanied by such evidence of exportation and landing abroad as may be available. Such application will be granted if the Bureau is satisfied by the evidence submitted that the merchandise has been exported.

§ 22.18 Supplies for certain vessels and aircraft.

(a) Drawback of duties and taxes shall be allowed on articles laden on certain vessels or aircraft as supplies or for use as equipment or in the maintenance or repair of certain foreign vessels or aircraft, as provided for in section 309, Tariff Act of 1930, as amended,[6] subject to the requirements of this section.

[6] "(a) *Exemption from customs duties and internal-revenue tax.* Articles of foreign or domestic origin may be withdrawn, under such regulations as the Secretary of the Treasury may prescribe, from any customs bonded warehouse, from continuous customs custody elsewhere than in a bonded warehouse, or from a foreign-trade zone free of duty and internal-revenue tax, or from any internal-revenue bonded warehouse, from any brewery, or from any winery premises or bonded premises for the storage of wine, free of internal-revenue tax—

"(1) for supplies (not including equipment) of (A) vessels or aircraft operated by the United States, (B) vessels of the United States employed in the fisheries or in the whaling business or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, or (C) aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States; or

"(2) for supplies (including equipment) or repair of (A) vessels of war of any foreign nation, or (B) foreign vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where such trade by foreign vessels is permitted; or

"(3) for supplies (including equipment), ground equipment, maintenance, or repair of aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where trade by foreign aircraft is permitted. With respect to articles for ground equipment, the exemption hereunder shall apply only to duties and to taxes imposed upon or by reason of importation.

"The provisions for free withdrawals made by this subsection (a) shall not apply to petroleum products for vessels or aircraft in voyages or flights exclusively between Hawaii or Alaska and any airport or Pacific coast seaport of the United States."

"(b) *Drawback.* Articles withdrawn from bonded warehouses, bonded manufacturing warehouses, continuous customs custody elsewhere than in a bonded warehouse, or from a foreign-trade zone, and articles of domestic manufacture or production, laden as supplies upon any such vessel or aircraft of the United States or laden as supplies (including equipment) upon, or used in the maintenance or repair of, any such foreign vessel or aircraft, shall be considered to be exported within the meaning of the drawback provisions of this Act.

"(c) *Articles removed in, or returned to, the United States.* Any article exempted from duty or tax, or in respect of which drawback has been allowed, under this section or section 317 of this Act and thereafter removed in the United States from any vessel or aircraft, or otherwise returned to the United States, shall be treated as an importation from aforeign country.

"(d) *Reciprocal privileges.* The priviliges granted by this section and section 317 of this Act in respect of aircraft registered in a foreign country shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Comemrce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Comemrce shall advise the Secretary of the Treasury that he has found that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted by this section and such section 317 shall not apply thereafter in respect of aircraft registered in that foreign country." (Tariff Act of 1930, sec. 309, as amended; 19 U.S.C. 1309)

(b) The procedure prescribed in this part as to the filing of an application for a rate of drawback and other required documents shall be followed, so far as applicable, in filing claims for drawback under this section, except that notices of lading on customs Form 7515 shall be filed in lieu of notices of exportation on customs Form 7511.

(c) A notice of lading on customs Form 7515 shall be filed in quadruplicate with the collector of customs at the port of lading. Such notice shall show the name of the vessel or identity of the aircraft on which the articles were, or are to be, laden, the number and kind of packages and their marks and numbers, the description of the articles and their weight (net), gauge, measure, or number, the name of the exporter, and the name of the port where the drawback entry is to be filed. The notice of the lading may be filed before or after lading of the articles but, if filed after lading, it shall be filed within 3 years after exportation and shall show the date of clearance or departure of the vessel or aircraft. The collector shall assign a number to each notice of lading. After numbering, one copy of the notice shall be returned to the exporter for delivery to the master or an authorized officer of the vessel or aircraft, or to a representative of the owner or operator of the vessel or aircraft having knowledge of the facts and holding a customs power of attorney, for certification thereon as to the receipt of the articles and the quantity laden. This copy shall be filed by the claimant with the drawback entry, except that, in cases where the notice of lading was filed after the lading of the articles, a separate receipt of the master or authorized officer of the vessel or aircraft, or of a representative of the owner or operator of the vessel or aircraft having knowledge of the facts and holding a customs power of attorney, may be filed with the drawback entry.

(d) After the vessel has cleared or obtained a permit to proceed, the collector at the port of lading shall execute his certification on one of the copies of the notice of lading and return it, with one uncertified copy, to the exporter, or the person designated by the exporter, for subsequent filing with the drawback entry. If the vessel is not required to clear or obtain a permit to proceed to another port, the collector shall return two copies of the notice to the exporter, or to the person designated by the exporter, with a statement of the facts in the case for subsequent filing with the drawback entry. In such cases, the collector at the port where the drawback entry is filed shall require the claimant to furnish an itinerary of the vessel for the immediate voyage to determine whether the vessel is engaged in a class of business or trade which warrants the allowance of drawback.

(e) Paragraphs (g) and (h) of this section, insofar as applicable, shall apply with respect to aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, and aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where such trade by foreign aircraft is permitted.

(f) [Reserved]

(g) In any case in which it is desired to land in the United States articles covered by a notice of lading, the master shall make application for a permit to land such articles under customs supervision. Except when transfer is made under the original notice of lading to another vessel entitled to the drawback privilege, the articles landed shall be treated as imported merchandise under section 309(c), Tariff Act of 1930, as amended.

(h) If the supplies were laden on an American vessel, a declaration of the master or other officer of the vessel who has knowledge of the facts, or of a representative of the vessel owner or operator having knowledge of the facts and holding a customs power of attorney, showing the class of business or trade in which the vessel on which the articles were laden as supplies was engaged at the time of lading shall be furnished in support of the drawback entry. Such declaration may be executed on the copy of the notice of lading on which the master or other officer or authorized representative certifies as to the receipt and quantity of the articles

laden, or be separately furnished, and shall be in substantially the following form:

I, _____
(Master or other officer or authorized representative)
of the S.S. _____, declare that I have knowledge of the facts set forth herein; that certain articles covered by notice of lading No. _____, filed at the port of _____, were laden on the above-named vessel at said port on _____, 19__, for use on board the vessel as supplies; and that at the time of lading of the articles, said vessel was engaged in the business or trade checked below:

1. Fisheries.
2. Whaling.
3. Trade between Atlantic and Pacific ports of the United States.
4. Trade between the United States and any of its possessions.
5. Foreign trade.
6. Trade between Hawaii or Alaska and any other part of the United States.

_____
(Name and title)

(i) [Reserved]

(j) In the case of articles laden or installed on aircraft as equipment or claimed to have been used in the maintenance or repair of aircraft, the collector shall require such declarations or other evidence as will satisfy him concerning the facts. In the case of fuel laden on aircraft as supplies there may be filed with the collector a composite notice of lading for each calendar month covering all deliveries of fuel supplies during that month by one drawback claimant at a single airport to all airplanes of one airline engaged in appropriate traffic. The notice shall show, either on its face or on a continuation sheet, as to each flight, the identity of the aircraft, the description of the fuel supplies laden, the amount laden, and the date of lading. At the end of the line relating to each flight sufficient space shall be left for the collector's notation as to clearance. On the reverse of the notice the "Receipt of Master or Other Officer" shall be certified by an airline representative having knowledge of the facts and holding a customs power of attorney.

(k) Drawback entries shall be filed on customs Form 7573 or 7575, as applicable, modified to read "lade" (or "use"), "laden" (or "used"), or "lading" (or "using") instead of "export," "exported," or "exporting," and the "Declaration of exportation" shall be amended to read as follows:

DECLARATION OF LADING OR USE

I, _____ (member of firm, officer representing corporation, agent, or attorney) of _____, do solemnly and truly declare that, according to the best of my knowledge and belief, the particulars of lading (or use) stated in this entry, the notices of lading, and receipts are correct, and that such merchandise is not to be relanded in the United States or any of its possessions, but is to be (has been) used on the vessels or aircraft herein for _____

_____
(State specifically, such as supplies, equipment, maintenance, or repair)
as specified in section 309, Tariff Act of 1930, as amended.
Dated_____.

_____
Shipper or agent.

(Sec. 309, 46 Stat. 690, as amended; 19 U. S. C. 1309)

§ 22.19 Meats cured with imported salt.

(a) All provisions of the regulations in this part relating to the allowance of drawback on articles manufactured with the use of imported merchandise, including the application for a rate of drawback and the filing of a statement, shall apply to the refund of duty on salt used in curing meats, except that the duty to be refunded is not subject to the retention of 1 percent and that no refund shall be made in an amount less than $100. Claims amounting to less than $100 shall be permitted to accumulate until the sum due reaches that amount.

(b) The prescribed forms shall be modified to show that the claim is being made for refund of duties paid on salt used in curing meats.

§ 22.20 Liquidation of drawback entries.

(a) No drawback on exported articles manufactured with the use of imported merchandise shall be allowed until the import entries covering such merchandise shall have been liquidated, the liquidated duties have been paid, and such liquidation shall have been made final by operation of law or by acceptance in writing by the importer.

(b) When the drawback claim has been completed by the filing of the entry, notices of exportation, and other documents required by the regulations in this part, the landing certificate has been produced where required, and clearance of the exporting conveyance has been established by the record of clearance in the case of direct exportation or by certificate in the case of exportation at another port, the collector shall ascertain the drawback due by reference to the records of importation and the drawback rate under which the drawback claimed is allowable.

(c) Import entries, certificates of importation, and extracts from such certificates shall constitute the records from which the amount of duty paid on the merchandise used shall be determined. In order to guard against errors of identification and overallowance, all merchandise identified in certificates of manufacture and drawback entries which have been liquidated and all merchandise covered by certificates of importation and extracts from such certificates shall be charged against the records of importation to which they respectively refer.

(d) The values to be used in computing the distribution of drawback where two or more products result from the manipulation of the imported merchandise, pursuant to section 313 (a), Tariff Act of 1930,[8] shall be market values unless the special regulations under which drawback is claimed provide otherwise.

(e) The amount of drawback due having been ascertained, the collector shall certify such amount for payment to the person making the entry or to the person to whom the maker on the face of the entry directs that such payment be made.

§ 22.21 To whom payable.

(a) The person named as exporter in the collector's certification on the notice of exportation shall be held to be the exporter and entitled to the drawback, unless the manufacturer or producer, on the sale or consignment of such articles, shall have reserved to himself the right to claim the drawback, in which case such manufacturer or producer may make entry for such drawback and it shall be paid to him upon the production of satisfactory evidence that such reservation was made with the knowledge and consent of the exporter.

(b) The drawback may alternatively be paid to the agent of the manufacturer, producer, or exporter, as the case may be, or to the person to whom such manufacturer, producer, exporter, or agent shall direct in writing that such drawback be paid.

FLAVORING EXTRACTS AND MEDICINAL OR TOILET PREPARATIONS (INCLUDING PERFUMERY) MANUFACTURED FROM DOMESTIC TAX-PAID ALCOHOL

§ 22.22 Drawback allowance.

(a) Upon the exportation of flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic tax-paid alcohol, a drawback of the internal-revenue tax paid shall be allowed in accordance with the provisions of section 313 (d), Tariff Act of 1930, as amended.[9]

(b) Drawback of internal-revenue tax shall be allowed on such articles when shipped to the Virgin Islands, Puerto Rico, Guam, or American Samoa, in accordance with the provisions of I. R. C. section 7563.[10]

(c) The Panama Canal Zone shall be considered foreign territory for the purpose[11] of allowing drawback under this section.

(33 Stat. 843; 19 U.S.C. 126)

---

[8] "* * * Where two or more products result from the manipulation of imported merchandise, the drawback shall be distributed to the several products in accordance with their relative values at the time of separation." (Tariff Act of 1930, sec. 313 (a), as amended; 19 U. S. C. 1313 (a))

[9] "Upon the exportation of flavoring extracts, medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid, there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used. * * *." (Tariff Act of 1930, sec. 313 (d), as amended; 19 U. S. C. 1313 (d))

[10] "All provisions of law for the allowance of drawback of internal revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal revenue tax has been paid when shipped from the United States to Puerto Rico, the Virgin Islands, Guam, or American Samoa." (I.R.C. sec. 7653(c); 26 U.S.C. 7653(c).)

[11] There is no authority of law for the allowance of drawback of internal-revenue tax on flavoring extracts or medicinal or toilet preparations (including perfumery) manufactured or produced in the United States and shipped to Alaska, Hawaii, Wake Island, Midway Islands, Kingman Reef, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

§ 22.23 Procedure.

(a) In the allowance of drawback of internal-revenue tax under the preceding section, the regulations in this part relating to the allowance of drawback on articles manufactured with the use of imported merchandise shall be followed so far as applicable and except as otherwise specified in this section and §§ 22.24, 22.25, and 22.26. The 3-year period for the completion of drawback claims prescribed in § 22.13 (a) shall be applicable to claims for drawback under section 313 (d), Tariff Act of 1930, as amended.

(b) The statement of the manufacturer shall set forth the quantity of domestic tax-paid alcohol contained in each of the various products covered thereby.

(c) The notice of exportation shall be filed on customs Form 7511. When it covers duty-paid imported merchandise, in addition to the tax-paid alcohol, two sets of drawback entries shall be filed, one set for customs drawback and the other for internal-revenue drawback.

(d) The following forms shall be used in lieu of the corresponding forms used in the case of articles manufactured with the use of imported merchandise:

Drawback entry, customs Form 7579.
Drawback entry and certificate of manufacture, customs Form 7583.
Certificate of manufacture and delivery, customs Form 7585.
Certificate of delivery of tax-paid alcohol, customs Form 7545.

(e) In the case of medicinal preparations and flavoring extracts there shall be filed with the drawback entry, or indorsed on the entry or certificate of manufacture, a declaration of the manufacturer showing whether claim has been, or will be, made by the manufacturer for domestic drawback allowable on the involved alcohol under the provisions of sections 5131, 5132, 5133, and 5134, Internal Revenue Code, as amended. If no claim has been or will be filed with the Internal Revenue Service for the domestic drawback, the manufacturer shall submit a statement, in duplicate, setting forth that fact to the Assistant Regional Commissioner of Internal Revenue, Alcohol and Tobacco Tax, for the region in which the manufacturer's factory is located. The statement shall show the quantity and description of the exported products, the identity of the alcohol used by serial number of package or tank car, the name and registry number of the warehouse from which the alcohol was withdrawn, the date of the withdrawal, the serial number of the tax-paid stamp or certificate, and the port where the drawback claim will be filed. The Assistant Regional Commissioner will verify the statement, forward the original of the document to the port designated, and retain the copy. Such declarations and statements shall not be required in the case of toilet preparations (including perfumery).

(f) In cases where the percentage of alcohol contained in a medicinal preparation, flavoring extract, or toilet preparation varies from the quantity of alcohol shown by a previously approved statement or schedule to be contained in the said exported product in an amount equal to more than 5 percent of the total volume of the product, the procedure set forth in § 22.4 (o) applicable to the amendment of rates of drawback to cover additional articles shall be followed. Changes of 5 percent, or less, of the volume of the product shall be reported to the collector of customs at the port where the drawback entries are liquidated, which officer may allow drawback on such articles without specific Bureau authorization.

§ 22.24 Manufacturing record.

The description of the alcohol required to be stated in the entry may be obtained from the package containing the tax-paid alcohol. There shall be kept by the manufacturer of the flavoring extracts or medicinal or toilet preparations on which drawback is claimed a record of all such preparations manufactured, the quantity of wastage, if any, and a full description of the alcohol. This record shall be open at all times to the inspection of customs officers.

§ 22.25 Internal Revenue certificates and extracts from such certificates.

(a) The drawback claimant or manufacturer shall submit an application in writing to the Assistant Regional Commissioner of Internal Revenue, Alcohol and Tobacco Tax, for the region in which the alcohol used in manufacture was withdrawn, for the issuance of a tax-paid certificate on internal-revenue Form 646 to the collector of customs with whom the drawback claim will be filed. The application shall state the quantity of alcohol in taxable gallons, the serial number of each package, the serial number of the stamp, the amount of tax paid on the alcohol, the name, registry number, and location of the warehouse, the date of withdrawal, the name of the manufacturer using the alcohol in producing the exported articles, the address of the manufacturer and of his manufacturing plant, and the port where the drawback claim will be filed. If the application is accompanied by customs Form 7545, showing any of such data, the data so shown need not be repeated in the application.

(b) When drawback is claimed on flavoring extracts or medicinal or toilet preparations manufactured with the use of rectified or redistilled alcohol, the certificate, internal-revenue Form 646, shall show, in addition to the data called for therein, the name of the rectifier, the quantity in wine gallons of rectified alcohol produced, the proof thereof, the quantity in proof gallons produced, the amount of tax paid, the date of withdrawal, and the serial numbers of the rectifier's stamps covering the alcohol.

(c) If a certification as to any portion of the alcohol described in a certificate on internal revenue Form 646 should be required for the liquidation of drawback entries filed at another port, the collector, on written application of the person who requested its issuance, shall transmit an extract from the certificate for use at such port. The extract shall be made on customs Form 4541 and shall show the Internal Revenue Service certificate number on the original certificate.

§ 22.26 Collector's statement of drawback due.

(a) When the drawback claim has been completed by the filing of the entry, notice of exportation, etc., as required by the regulations in this part, any required landing certificate has been produced, and clearance of the exporting conveyance has been established by the records of clearance in the case of direct exportation or by a certificate when the merchandise was exported at another port, the collector shall proceed to ascertain the amount of drawback due by reference to the certificate of manufacture and the drawback rate under which the drawback claimed is allowable.

(b) If the declaration required by § 22.23 (e) shows that claim has been, or will be, made for the domestic drawback referred to in that section, the allowance of drawback under the provisions of section 313 (d), Tariff Act of 1930, as amended, shall be limited to the difference between the amount of tax paid and the amount of domestic drawback claimed. If the declaration and verified statement required by § 22.23(e) show that no claim has been, or will be, made by the manufacturer for the domestic drawback, the drawback allowed shall be the full amount of the tax paid on the alcohol used.

(c) The amount of drawback due having been ascertained, the collector shall, in accordance with § 22.20(e), certify such amount for payment.

(d) No deduction of 1 per centum shall be made in allowing drawback claims under section 313 (d), Tariff Act of 1930, as amended.

MERCHANDISE EXPORTED FROM CONTINUOUS CUSTODY

§ 22.27 Drawback allowed.

(a) Merchandise on which the duties have been paid and which has remained continuously in bonded warehouse or otherwise in customs custody since importation may be entered or withdrawn at any time within 3 years after the date of importation for exportation or for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, and upon such exportation or shipment the duties shall be refunded in accordance with the provisions of section 557(a), Tariff Act of 1930, as amended.[12]

(b) The Panama Canal Zone and Guantanamo Bay Naval Station shall be

---

[12] "* * * Merchandise upon which the duties have been paid and which shall have remained continuously in bonded warehouse or otherwise in the custody and under the control of customs officers, may be entered or withdrawn at any time within three years after the date of importation for exportation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, under such regulations as the Secretary of the Treasury shall prescribe, and upon such entry or withdrawal, and exportation or shipment, the duties thereon shall be refunded." (Tariff Act of 1930, sec. 557(a), as amended; 19 U.S.C. 1557(a))

considered foreign territory for the pur- the customs officer in charge, and there-

considered foreign territory for the purpose of allowing drawback under this section.[13]

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

§ 22.28 Continuous custody.

(a) No remission, abatement, refund, or drawback of duty shall be allowed on account of the exportation of any merchandise after its release from the custody of the Government, except as specified in section 558, Tariff Act of 1930, as amended.[14]

(b) Merchandise which has been released to an importer under the bond prescribed by § 8.28 of this chapter and returned to the appraiser's stores upon requisition of the collector, and merchandise released under a temporary importation bond as provided for in schedule 8, part 5C, Tariff Schedules of the United States, shall not be deemed to have been in the continuous custody of customs officers.

(c) Merchandise which remains upon the wharf by permission of the collector shall be held to be in customs custody. This custody shall be deemed to cease when the permit has been accepted by the customs officer in charge, and there is nothing further to be done by him in the way of measuring, weighing, gauging, etc.

(d) In the case of merchandise entered for warehouse, customs custody shall be deemed to cease when the customs warehouse officer with whom a delivery permit has been lodged has released the merchandise to or upon the order of the proprietor of the warehouse, as provided for in §§ 8.38 and 19.6 of this chapter.

(e) Except as stated in paragraph (c) of this section, merchandise examined elsewhere than at the public stores in accordance with the provisions of § 14.2 of this chapter shall be considered released from customs custody when final examination for purposes of appraisement has been completed.

(Sec 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

§ 22.29 Entry and completion thereof.

(a) At least 6 hours before the lading of any merchandise on which drawback is claimed, the importer or whomever he may designate in writing shall file with the collector an entry in duplicate on customs Form 7541.

(b) When the merchandise is to be transported to another port for exportation, the entry shall be filed in triplicate and shall name the transporting conveyence, the route, and the port of exit. One copy of the entry shall be certified by the collector and forwarded by him to the collector at the port of exit. The merchandise shall be transported by a bonded carrier in accordance with the regulations covering transportation in bond, and manifests shall be prepared and filed in the manner prescribed in § 18.19 of this chapter.

(c) The regulations in Part 18 as to supervision of lading and certification of exportation of merchandise withdrawn from warehouse for exportation without payment of duty shall be followed so far as applicable.

(d) In order to complete the drawback entry, a bill of lading issued by the proper representative of the exporting carrier and covering the merchandise described in the entry shall be filed within 2 years after the date the merchandise is exported. The bill of lading shall show that the merchandise was shipped by the person making the drawback entry, or shall bear an endorsement of the person in whose name the merchandise was shipped showing that the person making entry is authorized to make it and to receive the drawback. The terms of the bill of lading may limit and define its use by declaring it to be for customs purposes only and not negotiable. If a copy of the original bill of lading is filed, it shall bear the signature of the person issuing it.

(e) Neither a memorandum copy of the bill of lading issued by the transportation company nor a bill of lading bearing merely the initials of the representative of the transportation company shall be accepted in lieu of the bill of lading described above.

(f) Collectors of customs may issue on customs Form 4475 extracts from bills of lading filed with drawback entries.

(g) If the person making the drawback entry cannot produce the required bill of lading, he may submit in lieu thereof, through the collector to the Bureau, a statement showing the cause of failure with such evidence of exportation and of his right to make the drawback entry as may be obtainable.

(h) A landing certificate, when required. shall be filed within the time prescribed in § 22.17 (c).

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

§ 22.30 Ascertainment of drawback.

(a) When the drawback entry has been completed and the bill of lading filed, together with the landing certificate when required, the reports of inspection and lading made, and the clearance of the exporting conveyance established by the record of clearance in the case of direct exportation or by certificate in the case of transportation and exportation, the collector with whom such entry and proofs are lodged shall verify the facts of importation by reference to the records in his office and ascertain the amount of duty paid on the merchandise exported. The drawback found due shall be allowed in accordance with the regulations covering manufactured articles, but there shall be no deduction of 1 percent.

(b) No drawback shall be allowed until the import entry covering the merchandise shall have been liquidated, the liquidated duties have been paid, and such liquidation has been made final by operation of law or by acceptance in writing by the importer.

(Sec. 557, 46 Stat. 744, as amended; 19 U. S. C. 1557)

REJECTED MERCHANDISE

§ 22.31 Drawback allowance.

Upon the exportation of imported merchandise not conforming to sample or specifications or shipped without the consent of the consignee, the duties paid thereon, less 1 percent, shall be refunded as drawback in accordance with the provisions of section 313(c), Tariff Act of 1930,[15] as amended, subject to compliance with the regulations in §§ 22.32 to 22.35.

§ 22.32 Drawback entry.

(a) An importer of merchandise claimed not to conform to sample or specifications or to have been shipped to him without his consent, who desires to export such merchandise with benefit of drawback, shall file with the collector of customs at the port where the merchandise was entered or at any other port a drawback entry in duplicate on customs Form 7539, stating the quantity and description of the merchandise and identifying it with the import entry. The drawback entry shall also specify the place where the merchandise is to be deposited in customs custody. If the collector is of the opinion that the place specified is not suitable for the proper examination of the merchandise and any necessary repacking, he shall require the merchandise to be delivered to a suitable place at the expense of the applicant.

(b) Each drawback entry covering merchandise not conforming to sample or specifications or shipped without the consent of the consignee shall be executed in the name of the importer of record, unless another person has been

---

[13] Imported merchandise which has remained continuously in bonded warehouse or otherwise in customs custody since importation is not entitled to drawback of duty when shipped to Alaska, Puerto Rico, Hawaii, Canton Island, Enderbury Island, or Palmyra Island.

[14] "(a) No remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed because of the exportation or destruction of any merchandise after its release from the custody of the Government, except in the following cases:

"(1) When articles are exported with respect to which a drawback of duties is expressly provided for by law;

"(2) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to a law of the United States and under such regulations as the Secretary of the Treasury may prescribe; and

* * * * * *

"(b) When articles are exported or destroyed under customs supervision after once having been released from customs custody, as provided for in subsection (c) of section 304 of this Act, such exportation or destruction shall not exempt such articles from the payment of duties other than the marking duty provided for in such subsection (c)." (Tariff Act of 1930, sec. 558, as amended; 19 U. S. C. 1558)

[15] "Upon the exportation of merchandise not conforming to sample or specifications or shipped without the consent of the consignee upon which the duties have been paid and which have been entered or withdrawn for consumption and, within ninety days after release from customs custody, unless the Secretary authorizes in writing a longer time, returned to customs custody for exportation, the full amount of the duties paid upon such merchandise shall be refunded as drawback, less 1 per centum of such duties." (Tariff Act of 1930, sec. 313 (c), as amended; 19 U. S. C. 1313 (c))

named in the import entry as the actual owner and the declaration of such owner has been timely filed, in which case the drawback entry may be filed in the name of either such owner or the importer of record. If the goods are claimed to be not in accordance with sample or specifications, the drawback entry shall be accompanied by a copy of the order for the merchandise, copies of any preliminary correspondence, and the samples or specifications on which the merchandise was ordered, together with a certificate of the actual owner that the sample or specifications submitted are those on which the merchandise was ordered, showing in detail in what manner the merchandise does not conform to sample or specifications. If no written order was placed and no sample or specifications are available, a certificate of the actual owner setting forth the specifications of his order and the method by which they were communicated to the seller may be accepted. If the merchandise was shipped to the importer without his consent, a clear statement of that fact shall be submitted, together with all information in the possession of the importer as to the reason for the shipment. In doubtful cases the collector may decline to allow the claim unless there is produced corroboration by the shipper of the specifications or circumstances, or other evidence sufficient in the opinion of the collector to establish the claim. If the merchandise is returned to customs custody at a port other than at the port at which it was originally entered, and the drawback entry is to be filed at such other port, the collector of customs at that port shall request the collector of customs at the port where the merchandise was originally entered to furnish a certificate of importation which shall include the date on which the merchandise was released from customs custody. The collector at the port where the drawback entry is filed may request any additional documents or data he deems necessary.

§ 22.33 Return of merchandise to customs custody.

(a) Upon receipt of the drawback entry, the collector shall assign a number thereto, by appropriate notation on all copies, approve the place of deposit of the merchandise specified by the person making the entry or designate another place if that one is not deemed suitable, and return the original to the entrant for presentation with the merchandise to the customs officer at the place of deposit. The merchandise shall be delivered into customs custody at such place within 90 days after the date on which it was originally released from customs custody unless, either before or after the return of the merchandise, a longer time is specially authorized by the Bureau, or by the collector under the authority of this paragraph. The collector, upon written application, may extend the period in those cases where he is satisfied that the importer has been or will be prevented by circumstances beyond his control from returning the merchandise within the 90-day period, and that the importer proposes to return, or has returned, the merchandise within a reasonable time. Applications for extension of time shall be filed with, and acted upon by, the collector of customs at the port where the drawback entry will be filed. If the merchandise is to be exported otherwise than by mail, one copy of the entry shall be returned to the entrant, for resubmission to the collector in accordance with paragraph (e) of this section. A receipt showing the fact and date of such delivery shall be furnished to the applicant if he requests it. If the report of the receiving officer shows that the merchandise was not returned to customs custody within the time required by law, the drawback shall be denied.

(b) If the merchandise is to be exported through the mails, it shall be deposited with the postmaster for delivery to the collector of customs at the port where the merchandise was originally entered. The parcel in which the merchandise is packed shall be properly wrapped, stamped, and addressed for mailing to the foreign destination, and shall be enclosed in a wrapper addressed to the collector of customs at the port where such merchandise was originally entered. A waiver on customs Form 3413, or in a substantially similar form, of the right to withdraw the merchandise from the mails, signed by the exporter, shall be affixed, stamped, or written on both the inner and outer wrappers. The outside wrapper shall bear an appropriate notation to the effect that the contents are intended for examination and exportation under section 313(c), Tariff Act of 1930, as amended. If the parcel is to be insured or registered to cover transportation from the port of original entry to the foreign destination, the exporter shall deposit with the collector of customs at such port the necessary funds to cover the charges for insurance or registry.

(c) The drawback entry, fully executed in duplicate on customs Form 7539, shall accompany or be mailed simultaneously with the parcel, unless such form is not available to the exporter, or unless the information necessary to complete the entry is not available at the time of mailing, in either of which cases the merchandise may be submitted without the entry to the postmaster for delivery to the collector of customs. When the returned merchandise is received by the collector without the related drawback entry, he shall immediately furnish the exporter with the proper number of copies of Form 7539 for prompt execution and return. The dates of the delivery of the merchandise from the post office on importation and the return thereto for exportation shall be considered the dates of release from and return to customs custody, respectively, within the meaning of section 313 (c), Tariff Act of 1930, as amended. Drawback shall be refused if the merchandise was not returned to custody within 90 days after its release therefrom, or within a longer period authorized by the Bureau or by the collector of customs pursuant to authority in paragraph (a) of this section.

(d) The applicant shall submit for the information of the collector of customs the parcel post or registered mail receipt or other evidence from the postmaster at the deposting office showing the date on which the merchandise was returned to the postmaster, together with evidence of the date of delivery of the incoming package from the post office.

(e) The entrant shall be advised of the approval of his entry and mailing of the merchandise or of the disapproval of his entry. If the entry has been approved and the merchandise is to be exported otherwise than by mail, the importer or whoever shall have been designated by the importer in writing shall file with the collector, at least 6 hours before lading of the merchandise, a copy of the entry with the name of the exporting carrier and the place of lading shown thereon and the exporter's declaration thereon fully executed. The export procedure and liquidation of the entry shall be the same, so far as applicable, as in the case of an exportation of merchandise from continuous customs custody with benefit of drawback. If the drawback is denied, the entrant shall advise the collector as to the disposition to be made of the merchandise.

(f) In order to complete the drawback entry, a bill of lading and a landing certificate, when required under § 22.17 (a), shall be filed in the manner and within the time prescribed in § 22.29 in the case of merchandise exported from continuous customs custody.

§ 22.34 Acceptance of merchandise at importer's risk and expense; time limit for exportation.

Merchandise returned to customs custody under section 313(c), Tariff Act of 1930, as amended, shall be accepted only at the risk and expense of the party in interest. If the merchandise is not exported within 90 days from the date of notification of approval of the drawback entry, it shall be treated as unclaimed, except that the 90-day period may be extended for not more than 90 days by the collector upon written request by the original applicant.

§ 22.35 Waiver of proof where the duty is less than $50.

With the exception of the drawback entry, the above provisions relative to proof of non-conformity to sample or specifications, or of shipment without the consent of the consignee, may be waived in whole or in part if the duty on the merchandise to be exported is less than $50 and the collector is otherwise satisfied that the claim is well founded.

MERCHANDISE TRANSFERRED TO A FOREIGN-TRADE ZONE FROM CUSTOMS TERRITORY

§ 22.36 Drawback allowance.

(a) Drawback of duties and taxes shall be allowed on merchandise transferred to a foreign-trade zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage under the fourth proviso to section 3 of the act of June 18, 1934, as amended (19

son making the entry or designate another place if that one is not deemed

exportation under section 313(c), Tariff Act of 1930, as amended. If the parcel

exporting carrier and the place of lading shown thereon and the exporter's

der the fourth proviso to section 3 of the act of June 18, 1934, as amended (19

U.S.C. 81c),[18] subject to compliance with §§ 22.37 to 22.40, inclusive.

(b) Such merchandise shall be given status as zone-restricted merchandise on proper application as prescribed in § 30.10 of this chapter.

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

§ 22.37 Articles manufactured or produced in the United States.

(a) The procedure prescribed in this part as to the filing of an application for a rate of drawback and other required documents shall be followed, so far as applicable, in filing claims for drawback under the fourth proviso to section 3 of the act of June 18, 1934, as amended (19 U. S. C. 81c), on articles manufactured or produced in the United States with the use of imported or substituted merchandise, and on flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced with the use of domestic tax-paid alcohol, except that notices of transfer on customs Form 7513 shall be filed in lieu of notices of exportation on customs Form 7511.

(b) Notices of transfer on customs Form 7513 shall be filed in triplicate with the collector of customs at the port where the foreign-trade zone is located. Each notice shall show the number and location of the foreign-trade zone to which the articles are to be transferred, the number and kind of packages and their marks and numbers, the description of the articles and their weight (gross and net), gauge, measure, or number, the name of the transferor, and the name of the port where the drawback entry is to be filed.

(c) The notice of transfer shall be filed with the collector prior to the transfer of the articles to the zone, or within 3 years after receipt of the articles in the zone and, if filed after the transfer, shall state the foreign-trade zone lot number.

(d) The collector shall assign a number to each notice of transfer. After numbering, one copy of the notice shall be returned to the transferor for subsequent filing with the drawback entry. After the articles have been received in the zone, the customs officer at the zone shall certify on the copy of the notice of transfer received from the collector as to the receipt of the articles in the zone and forward the notice to the transferor, or the person designated by the transferor, for subsequent filing with the drawback entry. Prior to filing such certified copy with the drawback entry, the transferor shall obtain thereon the foreign-trade zone operator's certification as to the receipt of the articles in the zone.

(e) Drawback entries shall be filed on customs Forms 7573, 7575–A, 7575–B, 7579, or 7583, as applicable, modified to indicate that the merchandise was transferred to a foreign-trade zone and the "Declaration of Exportation" shall be amended to read as follows:

DECLARATION OF TRANSFER TO A FOREIGN-TRADE ZONE

I, _____
(Member of firm, officer representing corporation, agent, or attorney)

of _____
declare that, to the best of my knowledge and belief, the particulars of transfer stated in this entry, the notices of transfer, and receipts are correct, and such merchandise was transferred to a foreign-trade zone for the sole purpose of exportation, destruction, or storage, and is not to be returned to customs territory of the United States for domestic consumption.

_____
(Transferor or agent)

Date _____

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

§ 22.38 Merchandise transferred to a foreign-trade zone from continuous customs custody.

(a) The procedure prescribed in §§ 22.27 to 22.30, inclusive, shall be followed, so far as applicable, in filing claims for drawback on merchandise transferred to a foreign-trade zone from continuous customs custody. Prior to the transfer of such merchandise, the importer, or a person designated in writing by the importer for the purpose, shall file with the collector an entry in duplicate on customs Form 7541. After the merchandise has been received in the zone, the customs officer at the zone shall certify on the copy of Form 7541 received from the collector as to the receipt of the merchandise in the zone and forward it to the transferor, or the person designated by the transferor, to obtain thereon the foreign-trade zone operator's certification as to the receipt of the articles in the zone, in lieu of the bill of lading required by § 22.29 (d), and resubmit the copy to the collector.

(b) Customs Form 7541 shall be modified to indicate that the merchandise is to be transferred to a foreign-trade zone and shall bear an endorsement in the following form, to be placed thereon by the transferor, for execution by the foreign-trade zone operator:

RECEIPT OF FOREIGN-TRADE ZONE OPERATOR

The merchandise described in this entry was received from _____ on _____, 19____, in Foreign-Trade Zone No. _____, _____
(City and State)

Exceptions: _____

_____
(Name of operator)

By _____
(Name and title)

The "Exporter's Declaration" on Form 7541 shall be amended to read as follows:

TRANSFEROR'S DECLARATION

I, _____, one of the firm of _____, declare that the merchandise described in this entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it is to be transferred to Foreign-Trade Zone No. _____, located at _____, for the
(City and State)
sole purpose of exportation, destruction, or storage, and is not to be returned to customs territory of the United States for domestic consumption. I further declare that, to the best of my knowledge and belief, this merchandise is the same in quantity, quality, value, and package, unavoidable wastage and damage excepted, as it was at the time of importation; that no allowance nor reduction of duties has been made for damage or other cause except as specified in this entry; and that no part of the duties paid has been refunded by way of drawback or otherwise.

_____
(Transferor)

Date _____

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

§ 22.39 Rejected merchandise.

(a) The procedure prescribed in §§ 22.31 to 22.35, inclusive, shall be followed, so far as applicable. The importer or a person designated in writing by the importer for the purpose shall file with the collector, prior to the transfer of any merchandise to a foreign-trade zone, an entry in duplicate on customs Form 7539. The procedure shall be the same, so far as applicable, as that governing the transfer of merchandise to a foreign-trade zone from continuous custody (§ 22.38).

(b) Customs Form 7539 shall be modified to indicate that the merchandise is to be transferred to a foreign-trade zone and shall bear an endorsement, to be executed by the foreign-trade zone operator, of a receipt as provided for in § 22.38 (b). The "Exporter's Declaration" on Form 7539 shall be amended to read as follows:

TRANSFEROR'S DECLARATION

I, _____, one of the firm of _____, declare that the merchandise described in the within entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it is to be transferred to Foreign-Trade Zone No. ____, located at _____
(City and State)
_____, for the sole purpose of exportation, destruction, or storage, and is not to be returned to customs territory of the United States for domestic consumption. I further declare that, to the best of my knowledge and belief, the said merchandise is the

---

[18] "* * * *Provided further*, That under the rules and regulations of the controlling Federal agencies, articles which have been taken into a zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of:

"(a) The drawback, warehousing, and bonding, or any other provisions of the Tariff Act of 1930, as amended, and the regulations thereunder; and

"(b) The statutes and bonds exacted for the payment of drawback, refund, or exemption from liability for internal-revenue taxes and for the purposes of the internal-revenue laws generally and the regulations thereunder.

"Such a transfer may also be considered an exportation for the purposes of other Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable. Such articles may not be returned to customs territory for domestic consumption except where the Foreign-Trade Zones Board deems such return to be in the public interest, in which event the articles shall be subject to the provisions of paragraph 1615 (f) of section 1201 of this title: * * *" (19 U. S. C. 81c.)

same in quantity, quality, value, and package as specified in this entry; that no allowance nor reduction in duties has been made; and that no part of the duties paid has been refunded by way of drawback or otherwise.

(Transferor)

Date ----------

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

§ 22.40 To whom payable.

The person named in the foreign-trade zone operator's receipt on the notice of transfer or the drawback entry, as the case may be, shall be held to be the transferor. The drawback shall be paid to the transferor or to the person to whom the transferor shall direct in writing that such drawback be paid.

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

General Regulations Applicable to All Drawback Claims [17]

§ 22.41 Duties subject to drawback.

The duties subject to drawback include all ordinary customs duties; dumping duties assessed under the Antidumping Act, 1921; countervailing duties assessed under section 303, Tariff Act of 1930; and marking duties assessed under section 304 (c), Tariff Act of 1930, as amended.

§ 22.42 Merchandise sold to United States Government.

In connection with each drawback entry, except under section 313(c), Tariff Act of 1930, the claimant shall furnish a certificate showing whether or not the merchandise concerned was sold to any department, branch, or agency of the United States Government. If the merchandise was so sold, drawback shall be allowed only when claimed by the department, branch, or agency of the United States Government or when the entry is supported by a certificate signed by a proper officer of the department, branch, or agency concerned stating that the right to drawback was reserved by the supplier with the knowledge and consent of the said department, branch, or agency. A Government instrumentality operating with nonappropriated funds is not to be considered a Government agency within the meaning of this section.

§ 22.43 Verification of drawback claims by Customs Agency Service.

Collectors shall cause drawback documents to be referred to the Customs Agency Service for verification whenever such reference is believed to be required for orderly and efficient administration of the drawback law and regulations, and occasionally in any case. Such verification shall include an examination of not only the manufacturing records but also the sales and financial records relating to the transaction.

§ 22.44 Protests.

The decision of the collector of customs refusing to pay a drawback claim is final and conclusive upon all persons unless the person filing the drawback claim or his agent, within 60 days after but not before such decision, shall file a protest in writing with the collector in the manner required in the case of protests against the liquidation of import entries.

(Sec. 514, 46 Stat. 734; 19 U.S.C. 1514)

§ 22.45 Signing of documents; powers of attorney.

Powers of attorney, in accordance with § 8.19, of this chapter, shall be required from persons signing the documents listed below in all cases where such person is not a member of the firm or is not the importer, manufacturer, or exporter, as the case may be. A power of attorney shall also be required when the person signing such a document for a corporation is not the president, vice president, treasurer, or secretary of the corporation.

Drawback entries.
Certificates of delivery.
Certificates of manufacture.
Abstracts of manufacturing records.
Statements of manufacturers or producers, supplemental statements, schedules, and supplemental schedules.
Statements of owners.
Endorsements of exporters on bills of lading or notices of exportation.
Authorization by manufacturer, producer, exporter, or agent to pay the drawback to another person.
Application of importer to export merchandise not conforming to sample or specifications.
Importers' acceptances of liquidations of import entries as final.
Protests.

§ 22.46 Retention of records.

All records required to be kept by the manufacturer or producer under this part of the regulations with respect to drawback claims, and records kept by others to complement the records of the manufacturer or producer, shall be retained for at least 3 years after payment of such claims.

[17] "Whoever knowingly and willfully files any false or fraudulent entry or claim for the payment of drawback, allowance, or refund of duties upon the exportation of merchandise, or knowingly or willfully makes or files any false affidavit, abstract, record, certificate, or other document, with a view to securing the payment to himself or others of any drawback, allowance, or refund of duties, on the exportation of merchandise greater than that legally due thereon, shall be fined not more than $5,000 or imprisoned not more than two years, or both, and such merchandise or the value thereof shall be forfeited." (Pub. Law 772, 80th Cong.; 62 Stat. 683)

PART 23—ENFORCEMENT OF CUS... Sec.

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

Sec.

23.1 Boarding of vessels or vehicles and inspection, examination, and search of persons, baggage, and merchandise discharged from vessels.
23.2 Licensing of vessels of less than 30 net tons.
23.3 Seizure of vessels, vehicles, aircraft, and other conveyances; penalties.
23.4 Articles landed by seamen.
23.5 Baggage of passengers from foreign countries.
23.6 Entry by false invoice, declaration, other document, or statement; forfeiture incurred; liability for duties unaffected.
23.8 Merchandise imported contrary to law.
23.9 Narcotic drugs and marihuana.
23.9a Narcotic addicts and violators; border crossings.
23.10 Maritime Administration vessels; exemption from penalty.
23.11 Seizures, who may make; search warrants.
23.12 Appraisement of property subject to forfeiture; determination of penalties measured by value.
23.13 Claims for seized property valued at not over $2,500; bond for costs.
23.14 Release on payment of appraised value.
23.16 Notice of seizure and sale; value not exceeding $2,500; advertisement.
23.17 Disposition of goods after summary forfeiture; value not exceeding $2,500.
23.18 Summary sale of seized property.
23.19 Transfer of forfeited property to other districts for sale; destruction of forfeited property.
23.20 Disposition of proceeds of sale.
23.21 Forfeiture by court decree; reports to United States attorneys.
23.22 Bonding of seized property; petition to the court.
23.23 Fines, penalties, and forfeitures; remission of.
23.24 Petitions for the remission or mitigation of fines, penalties, and forfeitures, and restoration of proceeds of sale.
23.25 Remission, mitigation, or cancellation by collectors.
23.26 Compromise of claims.
23.27 Claims for compensation to informers.
23.28 Inspection of importer's books, records, etc.
23.29 Examination of importer and others.
23.30 Bribery of customs officers and employees.
23.31 Export controls.
23.32 Pollution of coastal and navigable waters.
23.33 Identification cards.
23.34 Return of property stolen in Canada.
23.35 Customs supervision.

AUTHORITY: §§ 23.1 to 23.35 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 23.1 Boarding of vessels or vehicles and inspection, examination, and search of persons, baggage, and merchandise discharged from vessels.

(a) For the purpose of examining the manifest or inspecting and searching the vessel or vehicle, any customs officer [1] at any time may go on board of:

(1) Any vessel at any place in the United States [2] or within the customs waters of the United States;

(2) Any American vessel on the high seas, when there is probable cause to believe that such vessel is violating or has violated the laws of the United States; or

(3) Any vessel within a customs-enforcement area,[3] but customs officers shall not board a foreign vessel upon the high seas in contravention of any treaty with a foreign government, or in the absence of a special arrangement with the foreign government concerned.

---

[1] "The term 'officer of the customs' means any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or agent or other person authorized by law or by the Secretary of the Treasury, or appointed in writing by a collector, to perform the duties of an officer of the Customs Service." (Tariff Act of 1930, sec. 401 (1), as amended; 19 U. S. C. 1401 (1))

"The keepers of Coast Guard stations and houses of refuge shall have the powers of inspectors of customs, but shall receive no additional compensation for duties performed as such: * * *" (14 U. S. C. 104)

[2] "Any of the officers or persons authorized to board or search vessels may stop, search, and examine, as well without as within their respective districts, any vehicle, beast, or person, on which or whom he or they shall suspect there is merchandise which is subject to duty, or shall have been introduced into the United States in any manner contrary to law, whether by the person in possession or charge, or by, in, or upon such vehicle or beast, or otherwise, and to search any trunk or envelope, wherever found, in which he may have a reasonable cause to suspect there is merchandise which was imported contrary to law; and if any such officer or other person so authorized shall find any merchandise on or about any such vehicle, beast, or person, or in any such trunk or envelope, which he shall have reasonable cause to believe is subject to duty, or to have been unlawfully introduced into the United States, whether by the person in possession or charge, or by, in, or upon such vehicle, beast, or otherwise, he shall seize and secure the same for trial." (19 U. S. C. 482)

"The collector for the district in which any vessel or vehicle arrives from a foreign port or place may put on board of such vessel or vehicle while within such district, and if necessary while going from one district to another, one or more inspectors or other customs officers to examine the cargo and contents of such vessel or vehicle and superintend the unlading thereof, and to perform such other duties as may be required by law or the customs regulations for the protection of the revenue. Such inspector or other customs officer may, if he shall deem the same necessary for the protection of the revenue, secure the hatches or other communications or outlets of such vessel or vehicle with customs seals or other proper fastenings while such vessel is not in the act of unlading and such fastenings shall not be removed without permission of the inspector or other customs officer. Such inspector or other customs officer may require any vessel or vehicle to discontinue or suspend unlading during the continuance of unfavorable weather or any conditions rendering the discharge of cargo dangerous or detrimental to the revenue. Any officer, owner, agent of the owner, or member of the crew of any such vessel who obstructs or hinders any such inspector or other customs officer in the performance of his duties, shall be liable to a penalty of not more than $500." (Tariff Act of 1930, sec. 455; 19 U. S. C. 1455)

"Any master of any vessel and any person in charge of any vehicle bound to the United States who does not produce the manifest to the officer demanding the same shall be liable to a penalty of $500, and if any merchandise, including sea stores, is found on board of or after having been unladen from such vessel or vehicle which is not included or described in said manifest or does not agree therewith, the master of such vessel or the person in charge of such vehicle or the owner of such vessel or vehicles shall be liable to a penalty equal to the value of the merchandise so found or unladen, and any such merchandise belonging or consigned to the master or other officer or to any of the crew of such vessel, or to the owner or person in charge of such vehicle, shall be subject to forfeiture, and if any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge or the owner of such vessel or vehicle shall be subject to a penalty of $500; *Provided*, That if the collector shall be satisfied that the manifest was lost or mislaid without intentional fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake and that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred. * * *" (Tariff Act of 1930, sec. 584; 19 U. S. C. 1584)

[3] "(a) Any officer of the customs may at any time go on board of any vessel or vehicle at any place in the United States or within the customs waters or, as he may be authorized, within a customs-enforcement area established under the Anti-Smuggling Act, or at any other authorized place, without as well as within his district, and examine the manifest and other documents and papers and examine, inspect, and search the vessel or vehicle and every part thereof and any person, trunk, package or cargo on board, and to this end may hail and stop such vessel or vehicle, and use all necessary force to compel compliance.

"(b) Officers of the Department of Commerce and other persons authorized by such department may go on board of any vessel at any place in the United States or within the customs waters and hail, stop, and board such vessel in the enforcement of the navigation laws and arrest or, in case of escape or attempted escape, pursue and arrest any person engaged in the breach or violation of the navigation laws.

"(c) Any master of a vessel being examined as herein provided, who presents any forged, altered, or false document or paper to the examining officer, knowing the same to be forged, altered, or false and without revealing the fact shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than $5,000 nor less than $500.

"(d) Any vessel or vehicle which, at any authorized place, is directed to come to a stop by any officer of the customs, or is directed to come to a stop by signal made by any vessel employed in the service of the customs and displaying proper insignia, shall come to a stop, and upon failure to comply a vessel or vehicle so directed to come to a stop shall become subject to pursuit and the master, owner, operator, or person in charge thereof shall be liable to a penalty of not more than $5,000 nor less than $1,000."

"(e) If upon the examination of any vessel or vehicle it shall appear that a breach of the laws of the United States is being or has been committed so as to render such vessel or vehicle or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel or vehicle, liable to forfeiture or to secure any fine or penalty, the same shall be seized and any person who has engaged in such breach shall be arrested.

"(f) It shall be the duty of the several officers of the customs to seize and secure any vessel, vehicle, or merchandise which

(b) Customs officers may search vessels for letters which may be on board or may have been conveyed contrary to law on board any vessel or on any post route, and shall seize such letters and deliver them to the nearest post office or detain them subject to orders of the postal authorities.

(c) If the collector or supervising customs agent believes that sufficient grounds exist to justify a search of any army or navy transport, the facts shall be reported to the commanding officer or master of such transport with a request that he cause a full search to be made and advise the collector or supervising customs agent of the result of such search. If, after the cargo has been discharged, passengers and their baggage landed, and the baggage of officers and crewmembers examined and passed, the collector or supervising customs agent believes that sufficient grounds exist to justfy the continuance of customs supervision of the vessel, the commanding officer of the vessel shall be advised accordingly.

(d) A customs officer may stop any vehicle arriving in the United States from a foreign country for the purpose of examining the manifest or inspecting and searching the vehicle and may stop, search, and examine any vehicle or person within the limits of the United States on which or on whom he may have reasonable cause to believe there is merchandise subject to duty or which has been introduced into the United States contrary to law.

(e) Collectors of customs and supervising customs agents are hereby authorized to cause inspection, examination, and search to be made under section 467, Tariff Act of 1930, as amended,[4]

of persons, baggage, or merchandise, even though such persons, baggage, or merchandise, were inspected, examined, searched, or taken on board the vessel at another port in the United States or the Virgin Islands, if such action is deemed necessary or appropriate.

(Sec. 1, 62 Stat. 717 R.S. 3061, sec. 11, 52 Stat. 1083, secs. 1, 3–8, 49 Stat. 517, 518, 519, 520; 18 U.S.C. 546, 19 U.S.C. 482, 1467, 1701, 1703–1708)

§ 23.2 Licensing of vessels of less than 30 net tons.

(a) The application for a license to import merchandise in a vessel of less than 30 net tons in accordance with section 6, Anti-Smuggling Act of August 5, 1935,[5] shall be addressed to the Secretary of the Treasury and delivered to the collector of customs in the district in which are located the ports where foreign merchandise is to be imported in such vessel.

(b) The application shall contain the following information:

(1) Name of the vessel, rig, motive power, and home port.

(2) Name and address of the owner.

(3) Name and address of the master.

(4) Net tonnage of the vessel.

(5) Kind of merchandise to be imported.

(6) Country or countries of exportation.

(7) Ports of the United States where the merchandise will be imported.

(8) Whether the vessel will be used to transport and import merchandise from a hovering vessel.

(9) Kind of document under which the vessel is operating.

(c) If the collector finds that the applicant is a reputable person and that the revenue would not be jeopardized by the issuance of a license, he may issue the license for a period not to exceed 12 months, incorporating therein any special conditions he believes to be necessary or desirable, and deliver it to the licensee.

(d) The master or owner shall keep the license on board the vessel at all times and exhibit it upon demand of any duly authorized officer of the United States. This license is personal to the licensee and is not transferable.

(e) The Secretary of the Treasury or the collector of customs in whose office the license was issued may revoke the license if any of its terms have been willfully or intentionally violated or for any other cause which may be considered prejudicial to the revenue or otherwise against the interest of the United States.

(Sec. 6, 49 Stat. 519; 19 U.S.C. 1706)

§ 23.3 Seizure of vessels, vehicles, aircraft, and other conveyances; penalties.

(a) If it shall appear to any officer authorized to board conveyances and make seizures that there has been a violation of a law of the United States whereby a vessel, vehicle, aircraft, or other conveyance, or any merchandise on board of or imported by such vessel, vehicle, aircraft, or other conveyance is liable to forfeiture, such officer shall seize the vessel, vehicle, aircraft, or other conveyance, or merchandise and arrest any person engaged in such violation.

(b) Every vessel, vehicle, animal, aircraft, or other thing which is being or has been used in, or to aid or facilitate, the importation, bringing in, unlading, landing, removal, concealing, harboring, or subsequent transportation of any

---

shall become liable to seizure, and to arrest any person who shall become liable to arrest, by virtue of any law respecting the revenue, as well without as within their respective districts, and to use all necessary force to seize or arrest the same.

"(g) Any vessel, within or without the customs waters, from which any merchandise is being, or has been, unlawfully introduced into the United States by means of any boat belonging to, or owned, controlled, or managed in common with, said vessel, shall be deemed to be employed within the United States and, as such, subject to the provisions of this section.

"(h) The provisions of this section shall not be construed to authorize or require any officer of the United States to enforce any law of the United States upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon said vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government." (Tariff Act of 1930, sec. 581, as amended; 19 U. S. C. 1581)

"Section 1. Transfer of Functions of Bureau of Marine Inspection and Navigation.

"As provided in Sections 2 and 3 of this order, there are transferred to the Bureau of Customs and the United States Coast Guard all functions of: the Bureau of Marine Inspection and Navigation, the office of the director thereof, the offices of supervising inspectors, principal traveling inspectors, traveling inspectors, local inspectors, assistant inspectors, shipping commissioners, deputy shipping commissioners, and the Board of Supervising Inspectors, the Boards of Local Inspectors, the Marine Casualty Investigation Board, the Marine Boards, and those functions of the Secretary of Commerce which pertain thereto.

"Section 2. Functions Transferred to Bureau of Customs.

"Those functions of the Bureau, Offices and Boards specified in Section 1, and of the Secretary of Commerce, pertaining to registry, enrollment, and licensing of vessels, including the issuance of commissions to yachts, the assignment of signal letters, and the preparation of all reports and publications in connection therewith; measurement of vessels, administration of tonnage duties, and collection of tolls; entrance and clearance of vessels and aircraft, regulation of vessels in the coasting and fishing trades, and limitation of the use of foreign vessels in waters under the jurisdiction of the United States; recording of sales, conveyances, and mortgages of vessels; protection of steerage passengers; all other functions of such Bureau, Offices and Boards which are now performed by the Bureau of Customs on behalf thereof; and the power to remit and mitigate fines, penalties and forfeitures incurred under the laws governing these functions, are transferred to the Commissioner of Customs, to be exercised by him under the direction and supervision of the Secretary of the Treasury." (Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

[4] "Whenever a vessel from a foreign port or place or from a port or place in any Territory or possession of the United States arrives at a port or place in the United States or the Virgin Islands, whether directly or via another port or place in the United States or the Virgin Islands, the collector of customs for such port or place of arrival may, under such regulations as the Secretary of the Treasury may prescribe and for the purpose of assuring compliance with any law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, cause inspection, examination, and search to be made of the persons, baggage, and merchandise discharged or unladen from such vessel, whether or not any or all such persons, baggage, or merchandise has previously been inspected, examined, or searched by officers of the customs." (Tariff Act of 1930, sec. 467, as amended; 19 U. S. C. 1467)

[5] "Except into the districts adjoining to the Dominion of Canada, or into the districts adjacent to Mexico, no merchandise of foreign growth or manufacture subject to the payment of duties shall be brought into the United States from any foreign port or place, or from any hovering vessel, in any vessel of less than thirty net tons burden without special license granted by the Secretary of the Treasury under such conditions as he may prescribe, nor in any other manner than by sea, except by aircraft duly licensed in accordance with law, or landed or unladen at any other port than is directed by law, under the penalty of seizure and forfeiture of all such unlicensed vessels or aircraft and of the merchandise imported therein, landed or unladen in any manner. Marks, labels, brands, or stamp, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found upon any such vessel or aircraft, shall be prima facie evidence of the foreign origin of such merchandise." (19 U. S. C. 1706)

---

article which is being, or has been, introduced or attempted to be introduced into

vehicle and the vessel or vehicle is not

§ 23.4 Articles landed by seaman.

article which is being, or has been, introduced or attempted to be introduced into the United States contrary to law shall be seized and held subject to forfeiture,[6] and any person who directs, assists financially or otherwise, or is in any way concerned in any such unlawful activity shall be liable to a penalty equal to the value of the article or articles involved.

(c) Unless specifically authorized by law, clearance of vessels within the common carrier exception of section 594, Tariff Act of 1930,[7] shall not be refused for the purpose of collecting a fine imposed upon the master or owner, unless either of them was a party to the illegal act. The Government's remedy in such cases is limited to an action against the master or owner.

(d) If a penalty is incurred under section 460, Tariff Act of 1930, as amended, by a person in charge of a vessel or vehicle and the vessel or vehicle is not subject to seizure, such vessel or vehicle may be held by the collector of customs under section 594, Tariff Act of 1930, until the penalty incurred by the person in charge has been settled.[8]

(Sec. 1, 62 Stat. 717, secs. 459, 460, 46 Stat. 717, as amended; secs. 1, 3–8, 49 Stat. 517, 518, 519, as amended, 520; 18 U. S. C. 546, 19 U.S.C. 1459, 1460, 1701, 1703–1708)

---

[6] "(a) Except as specified in the proviso to section 594 of this act, every vessel, vehicle, animal, aircraft, or other thing used in, to aid in, or to facilitate, by obtaining information or in any other way, the importation, bringing in, unlading, landing, removal, concealing, harboring, or subsequent transportation of any article which is being or has been introduced, or attempted to be introduced, into the United States contrary to law, whether upon such vessel, vehicle, animal, aircraft, or other thing or otherwise, shall be seized and forfeited together with its tackle, apparel, furniture, harness, or equipment.

"(b) Every person who directs, assists financially or otherwise, or is in any way concerned in any unlawful activity mentioned in the preceding subsection shall be liable to a penalty equal to the value of the article or articles introduced or attempted to be introduced." (Tariff Act of 1930, sec. 596, as amended, 19 U. S. C. 1595a)

"All property taken or detained under any revenue law of the United States shall not be repleviable, but shall be deemed to be in the custody of the law and subject only to the orders and decrees of the courts of the United States having jurisdiction thereof." (28 U. S. C. 2463)

It is not necessary that proceedings shall have been instituted against the master or owner personally before proceedings are instituted by libel against the vessel or vehicle.

It is immaterial whether the owner or driver of a domestic vehicle used wholly within the United States in the transportation of smuggled merchandise had or had not knowledge of its illegal use. If, however, the smuggled merchandise or the vehicle or property illegally used has been stolen, the rightful owner may interpose that fact as a defense to forfeiture.

[7] "Whenever a vessel or vehicle, or the owner or master, conductor, driver, or other person in charge thereof, has become subject to a penalty for violation of the customs revenue laws of the United States, such vessel or vehicle shall be held for the payment of such penalty and may be seized and proceeded against summarily by libel to recover the same: *Provided*, That no vessel or vehicle used by any person as a common carrier in the transaction of business as such common carrier shall be so held or subject to seizure or forfeiture under the customs laws, unless it shall appear that the owner or master of such vessel or the conductor, driver, or other person in charge of such vehicle was at the time of the alleged illegal act a consenting party or privy thereto." (Tariff Act of 1930, sec. 594; 19 U. S. C. 1594)

The immunity from seizure of vessels used as common carriers does not extend to fines imposed for the carriage of smoking opium.

[8] "The master of any vessel of less than five net tons carrying merchandise and the person in charge of any vehicle arriving in the United States from contiguous country, shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which such vessel or vehicle shall cross the boundary line or shall enter the territorial waters of the United States, and if such vessel or vehicle have on board any merchandise, shall produce to such customs officer a manifest as required by law, and no such vessel or vehicle shall proceed farther inland nor shall discharge or land any merchandise, passengers, or baggage without receiving a permit therefor from such customs officer. Any person importing or bringing merchandise into the United States from a contiguous country otherwise than in a vessel or vehicle shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which he shall cross the boundary line and shall present such merchandise to such customs officer for inspection." (Tariff Act of 1930, sec. 459, as amended; 19 U. S. C. 1459)

"The master of any vessel or the person in charge of any vehicle who fails to report arrival in the United States as required by the preceding section, or if so reporting proceeds farther inland without a permit from the proper customs officer, shall be subject to a penalty of $100 for each offense. If any merchandise is imported or brought into the United States in any vessel or vehicle, or by any person otherwise than in a vessel or vehicle, from a contiguous country, which vessel, vehicle, or merchandise is not so reported to the proper customs officers; or if the master of such vessel or the person in charge of such vehicle fails to file a manifest for the merchandise carried therein, or discharges or lands such merchandise without a permit; such merchandise and the vessel or vehicle, if any, in which it was imported or brought into the United States shall be subject to forfeiture; and the master of such vessel or the person in charge of such vehicle, or the person importing or bringing in merchandise otherwise than in a vessel or vehicle, shall, in addition to any other penalty, be liable to a penalty equal to the value of the merchandise which was not reported, or not included in the manifest, or which was discharged or landed without a permit. If any vessel or vehicle not so reported carries any passenger; or if any passenger is discharged or landed from any such vessel or vehicle before it is so reported, or after such report but without a permit; the master of the vessel or the person in charge of the vehicle shall, in addition to any other penalty, be liable to a penalty of $500 for each passenger so carried, discharged, or landed." (Tariff Act of 1930, sec. 460, as amended; 19 U. S. C. 1460)

[9] "If any merchandise or baggage is laden on, or unladen from, any vessel or vehicle without a special license or permit therefor issued by the collector, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, or in removing or otherwise securing such merchandise or baggage, shall each be liable to a penalty equal to the value of the merchandise or baggage so laden or unladen, and such merchandise or baggage shall be subject to forfeiture, and if the value thereof is $500 or more, the vessel or vehicle on or from which the same shall be laden or unladen shall be subject to forfeiture." (Tariff Act of 1930, sec. 453; 19 U. S. C. 1453)

§ 23.4 Articles landed by seamen.

(a) Except as provided for in paragraph (c) of this section, any article which is to be taken ashore by a seaman or officer of a vessel shall be declared and any article landed without having been properly declared as provided for hereinafter in this section shall be considered as having been unladen without a permit, subjecting the offender and the master to the penalties provided for in section 453, Tariff Act of 1930.[9] When practicable, the clearance of articles through customs shall be made and permission to unlade obtained before they are taken from the vessel but, if at any port or landing place the situation is such that no danger to the revenue will result therefrom, they may be submitted for examination and clearance at the customs office on the pier under a Declaration and Entry of Crew-member for Imported Articles, customs Form 5123, prepared by the crew-member in accordance with § 10.22 of the regulations of this chapter, or a Crew-member's Declaration on customs Form 5129. In the latter case, however, if the circumstances under which the articles are landed indicate an attempt to avoid customs inspection, the penalties prescribed in such section 453 shall be assessed.

(b) Articles taken ashore by an officer or seaman permanently leaving his vessel without intention to reship shall be cleared through customs on the vessel or at the customs office on the pier and any duty found due shall be collected as in the case of an arriving passenger. (See § 10.22 of this chapter.) If the declaration does not include all the articles landed, the officer or seaman shall be subject to the penalties prescribed in section 497, Tariff Act of 1930, with respect to the articles omitted. If a declaration is not made, the articles shall be considered as having been unladen without a permit and the penalties prescribed in section 453, Tariff Act of 1930, shall be assessed. Except as provided for in the last sentence of paragraph (a) of this section, section 453 shall not be applied if any, though not all, of the articles are declared.

(c) Articles in the possession of and exclusively for use by any officer or seaman during the voyage, such as necessary clothing, toiletries, and purely personal effects, may be brought ashore by such officer or seaman on temporary shore leave for use while in port without a written entry or declaration and without payment of duty or internal-revenue tax, provided the collector is satisfied that the articles so landed are necessary and appropriate for the officer's or seaman's accommodation while on temporary shore leave; that they will be devoted solely to his bona fide personal use; that the quantities are reasonable, depending upon the circumstances of each particular case; and that in the case of tobacco products and alcoholic beverages, the containers shall have been opened and the total quantity brought

ashore while the vessel is in port shall not exceed 50 cigars, 300 cigarettes, or 3 pounds of smoking tobacco, or a proportionate amount of each, and 1 quart of alcoholic beverages. In the case of articles possessing substantial commercial value, such as cameras, watches, razors, and other articles not consumed through use, the customs officer concerned, before passing the article free of duty, shall assure himself beyond doubt that the article brought ashore is for the actual bona fide personal use of the seaman while on shore leave and is to be returned to the vessel.[10]

(Secs. 453, 497, 46 Stat. 716, 728; 19 U. S. C. 1453, 1497)

§ 23.5 Baggage of passengers from foreign countries.

(a) Except as provided for in paragraph (b) of this section any article in the baggage of a passenger arriving from a foreign country which is not declared as required by § 10.19 of this chapter shall be seized if it is available for seizure at the time the violation is detected and the personal penalty prescribed by section 497, Tariff Act of 1930,[11] shall be demanded from the passenger. If the article is not seized, the Government is limited to a claim for the personal penalty against the person who imported the merchandise without declaration, since section 497 does not provide for the collection of value in lieu of seizure. Since undeclared articles are treated as smuggled, no duty shall be collected.

(b) When an article not declared in accordance with § 10.19 of this chapter is found in the baggage of a person arriving in the United States and it is satisfactorily established that (1) the article would have been free of duty and internal-revenue tax if it had been properly declared, (2) that its importation is not prohibited or restricted, and (3) that the failure to declare was not due to willful negligence or fraudulent intent, the personal penalty incurred is hereby remitted pursuant to the authority of section 618, Tariff Act of 1930. In any such case, when the article would have been free of duty only because of the provisions of items 810.20, 812.10, 812.25, 812.30, 812.40, 813.10, 813.30, 813.31, or 813.32, schedule 8, part 2A, Tariff Schedules of the United States or section 321 (a) (2) (B), Tariff Act of 1930, as amended, the forfeiture incurred is hereby mitigated pursuant to the authority of the said section 618 to a sum equal to the duty and any internal-revenue tax which would have accrued upon the article had it been imported for commercial purposes, and when the article would otherwise have been free of duty and internal-revenue tax, the forfeiture incurred is hereby remitted pursuant to the same authority.

(c) A passenger who makes any false or fraudulent statement or is guilty of other conduct within the purview of section 592, Tariff Act of 1930, as amended, whereby a customs officer is or may be induced to pass an article free of duty or at less than the proper amount of duty, shall be deemed to have violated the said section 592. In any such case the article involved shall be seized, if it is available for seizure at the time the violation is detected and such seizure is otherwise practicable, unless the article is in the possession of an innocent holder for value who has full right to possession as against any party to the customs violation. If the article is not available for seizure or is in the hands of such an innocent holder, or if seizure is impracticable, the domestic value of the article, determined in accordance with section 606, Tariff Act of 1930, shall be demanded from the passenger. Whether the article is seized or the domestic value thereof is demanded in lieu of seizure, the duty estimated to be due thereon shall be demanded of the passenger as soon as possible after the discovery of the violation. Any applicable internal-revenue tax shall also be demanded unless the merchandise is to be, or has been, forfeited.

(Secs. 497, 592, 618, 46 Stat. 728, 750, as amended, 757; 19 U.S.C. 1497, 1592, 1618)

§ 23.6 Entry by false invoice, declaration, other document, or statement; forfeiture incurred; liability for duties unaffected.

(a) When merchandise or the value thereof is subject to forfeiture under section 592, Tariff Act of 1930, as amended,[12] the collector may elect to proceed against the merchandise or its domestic value. If the merchandise is in the possession of an innocent purchaser, it shall not be seized. In such cases, or when the merchandise is not available for seizure, the collector shall proceed to recover the domestic value.

(b) If a claim for forfeiture value is made by the collector and is not paid or settled as prescribed in this part, the claim shall be forwarded to the United States attorney for appropriate action.

(c) When any article is seized under the provisions of section 499, Tariff Act of 1930, as amended,[13] it shall be subject to forfeiture under section 592 of the tariff act, as amended.

(d) An entry covering merchandise subject to the provisions of such section 592 shall be liquidated and the duties collected as though no forfeiture had been incurred. Appraisement of the merchandise or liquidation of the entry shall not be withheld merely because of the pending forfeiture proceedings. When merchandise not covered by an entry is subject to such section 592, a demand shall be made on the importer for payment of the duty estimated to be due on such merchandise in addition to the seizure of the merchandise or the demand for forfeiture value. Any applicable internal-revenue tax shall also be demanded unless the merchandise is to be, or has been, forfeited.

(Sec. 592, 46 Stat. 750, as amended; 19 U. S. C. 1592)

§ 23.8 Merchandise imported contrary to law.

Action shall be taken under section 545, title 18, United States Code,[14] only

---

[10] The fact that any such article shows no evidence of use would be sufficient in most cases to raise a reasonable doubt, particularly if the article is of foreign origin.

[11] "Any article not included in the declaration and entry as made, and, before examination of the baggage was begun, not mentioned in writing by such person, if written declaration and entry was required, or orally if written declaration and entry was not required, shall be subject to forfeiture and such person shall be liable to a penalty equal to the value of such article." (Tariff Act of 1930, sec. 497; 19 U. S. C. 1497)

[12] "If any consignor, seller, owner, importer, consignee, agent, or other person or persons enters or introduces or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance whatsoever, or makes any false statement in any declaration under the provisions of section 485 of this Act (relating to declaration on entry) without reasonable cause to believe the truth of such statement, or aids or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of the lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement; or is guilty of any willful act or omission by means whereof the United States is or may be deprived of the lawful duties or any portion thereof accruing upon the merchandise or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission, such merchandise or the value thereof, to be recovered from such person or persons, shall be subject to forfeiture, which forfeiture shall only apply to the whole of the merchandise or the value thereof in the case or package containing the particular article or articles of merchandise to which such fraud or false paper or statement relates. The arrival within the territorial limits of the United States of any merchandise consigned for sale and remaining the property of the shipper or consignor and the acceptance of a false or fraudulent invoice thereof by the consignee or the agent of the consignor, or the existence of any other facts constituting an attempted fraud, shall be deemed, for the purposes of this section, to be an attempt to enter such merchandise notwithstanding no actual entry has been made or offered." (Tariff Act of 1930, sec. 592, as amended; 19 U. S. C. 1592)

Acts or omissions which constitute grounds for forfeiture under section 592 may also justify criminal prosecution under 18 U. S. C. 542, in addition to the forfeiture incurred under section 592.

[13] "* * * If any package is found by the appraiser to contain any article not specified in the invoice and he reports to the collector that in his opinion such article was omitted from the invoice with fraudulent intent on the part of the seller, shipper, owner, or agent, the contents of the entire package in which such article is found shall be liable to seizure, but if the appraiser reports that no such fraudulent intent is apparent then the value of said article shall be added to the entry and the duties thereon paid accordingly. * * *" (Tariff Act of 1930, sec. 499, as amended; 19 U. S. C. 1499)

[14] "Whoever knowingly and willfully, with intent to defraud the United States, smuggles, or clandestinely introduces into the United States any merchandise which should have been invoiced, or makes out or passes, or attempts to pass, through the custom-

when there is clear indication of a

shall be assessed with respect to any un-

of, unless (1) the narcotics were discov-

(j) Except as provided for in this

when there is clear indication of a violation of some specific provision of law.[16]

(Sec. 1, 62 Stat. 716; 18 U. S. C. 545)

§ 23.9 Narcotic drugs and marihuana.

(a) The penalties prescribed in section 584, Tariff Act of 1930, as amended,[17]

---

house any false, forged, or fraudulent invoice, or other document or paper; or

"Whoever fraudulently or knowingly imports or brings into the United States, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law—

"Shall be fined not more than $5,000 or imprisoned not more than two years, or both.

"Proof of defendant's possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction for violation of this section.

"Merchandise introduced into the United States in violation of this section, or the value thereof, to be recovered from any person described in the first or second paragraph of this section, shall be forfeited to the United States."

"The term 'United States', as used in this section, shall not include the Philippine Islands, Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam." (18 U. S. C. 545)

[16] It is not necessary that the Government shall have been deprived of duty to warrant a conviction of forfeiture under 18 U. S. C. 545; it need only be established that merchandise has been fraudulently or knowingly introduced into the United States contrary to law.

"Contrary to law" is not confined to the customs laws but means any law. See Callahan v. United States, 285 U. S. 515.

[17] "* * * If any of such merchandise so found consists of heroin, morphine, or cocaine, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of $50 for each ounce thereof so found. If any of such merchandise so found consists of smoking opium or opium prepared for smoking, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of $25 for each ounce thereof so found. If any of such merchandise so found consists of crude opium, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of $10 for each ounce thereof so found. Such penalties shall, notwithstanding the proviso in section 594 of this act (relating to the immunity of vessels or vehicles used as common carriers), constitute a lien upon such vessel which may be enforced by a libel in rem; except that the master or owner of a vessel used by any person as a common carrier in the transaction of business as such common carrier shall not be liable to such penalties and the vessel shall not be held subject to the lien if it appears to the satisfaction of the court that neither the master nor any of the officers (including licensed and unlicensed officers and petty officers) nor the owner of the vessel knew, and could not, by the exercise of the highest degree of care and diligence, have known, that such narcotic drugs were on board. Clearance of any such vessel may be withheld until such penalties are paid or until a bond, satisfactory to the collector, is given for the payment thereof. The provisions of this paragraph shall not prevent the forfeiture of any such vessel or vehicle under any other provision of law. * * *" (Tariff Act of 1930, sec. 584, as amended; 19 U. S. C. 1584)

shall be assessed with respect to any unmanifested narcotic drug found on board of, or after having been unladen from, a vessel or vehicle. This rule is without exception and shall be applied without regard to any opinion of a customs officer as to any question of negligence or responsibility.

(b) When a package of regular cargo or a passenger's baggage otherwise properly manifested is found to contain any narcotic drug or marihuana imported for sale or other commercial purpose and not shown as such on the manifest, the penalties prescribed in such section 584 shall be assessed with respect to such narcotic drug or marihuana.

(c) The penalties prescribed in section 453, Tariff Act of 1930, shall be assessed in every case where a narcotic drug or marihuana is unladen without a permit.

(d) When a package of regular cargo or a passenger's baggage otherwise covered by a permit to unlade is found to contain any narcotic drug or marihuana imported for sale or other commercial purpose and not specifically covered by a permit to unlade, the penalties prescribed by such section 453 shall be assessed with respect to such narcotic drug or marihuana.

(e) Where a penalty has been incurred under section 584, Tariff Act of 1930, as amended, for failure to manifest narcotic drugs, clearance of the vessel involved shall be withheld until the penalty is paid or a bond satisfactory to the collector is given for the payment thereof, unless (1) the narcotics were discovered in a passenger's baggage and the collector is satisfied that neither the master nor any of the officers nor the owner of the vessel knew or had any reason to know or suspect that the narcotics had been on board the vessel, or (2) prior authority for the clearance without payment of the penalty or the furnishing of the bond is obtained from the Bureau.

(f) A written notice and demand for payment of the penalty incurred under section 584, Tariff Act of 1930, as amended, together with a copy of such section 584, shall be sent to the master of the vessel or the person in charge of the vehicle and to the owner of such vessel or vehicle. In the case of a vessel, if bond has been given, such notice shall be sent also to each surety. If the penalty is not paid or a petition filed under section 618, Tariff Act of 1930, for relief from such penalty, the collector shall refer the case to the United States attorney for appropriate action.

(g) When a petition has been filed and a decision made thereon, the collector shall send notice of such decision to the interested persons together with a demand for any payment required under the terms of such decision. If payment is not made, the collector shall refer the case to the United States attorney for collection of the full statutory penalty.

(h) Collectors may permit narcotic drugs (not including any smoking opium or opium prepared for smoking) in reasonable quantity and properly listed as medical stores of a vessel to remain on such vessel if satisfied that such drugs are adequately safeguarded and intended to be used only for medical purposes.

(i) All smoking opium or opium prepared for smoking shall be seized whenever and wherever found and shall stand forfeited without forfeiture proceedings of any character.[18]

---

[18] "It is unlawful to import or bring any narcotic drug into the United States or any territory under its control or jurisdiction; except that such amounts of crude opium and coca leaves as the Commissioner of Narcotics finds to be necessary to provide for medical and legitimate uses only may be imported and brought into the United States or such territory under such regulations as the Commissioner of Narcotics shall prescribe, but no crude opium may be imported or brought in for the purpose of manufacturing heroin. All narcotic drugs imported under such regulations shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

"Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall (1) if smoking opium or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or (2) if any other narcotic drug be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 514 and 515 of Title 19, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections. Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under such sections, or which is summarily forfeited as provided in this subdivision, shall be placed in the custody of the Commissioner of Narcotics and in his discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes." (21 U. S. C. 173)

(j) Except as provided for in this paragraph, all narcotic drugs seized under the Narcotic Drugs Import and Export Act by any Federal officer other than a customs officer shall be delivered immediately into the custody of the collector of customs in whose district the seizure is made, together with a full report of the circumstances of the seizure. When the seizure is made by a Federal narcotic inspector or agent in connection with an investigation which such inspector or agent considers may result in criminal prosecution under any Federal narcotic law, the drugs so seized shall not be delivered into the custody of the collector of customs until it is determined that they will not, or will no longer, be required as evidence.

(k) The exportation of smoking opium and opium prepared for smoking is absolutely prohibited. Other narcotic drugs or marihuana may be exported only under a permit issued by the Commissioner of Narcotics.[19]

---

[19] "It shall be unlawful for any person subject to the jurisdiction of the United States Government to export or cause to be exported from the United States, or from territory under its control or jurisdiction, or from countries in which the United States exercises extraterritorial jurisdiction, any narcotic drug to any other country. Narcotic drugs (except smoking opium * * *) may be exported to a country only which has * * * become a party of the convention

(l) Arrests and seizures under the narcotic laws, except as specified above, shall be handled in the same manner as other customs arrests and seizures.

(m) The functions relating to the notice and demand to produce order forms for marihuana under section 4744 of the Internal Revenue Code (26 U. S. C. 4744) may be performed by collectors of customs, supervising customs agents, and other officers of the customs.

(Sec. 584, 46 Stat. 748, as amended; 19 U. S. C. 1584)

§ 23.9a Narcotic addicts and violators; border crossings.

Any United States citizen who is addicted to or uses narcotic drugs as defined in section 4731 of the Internal Revenue Code of 1954, as amended (except in those cases where the narcotic drug is lawfully prescribed by a duly licensed physician in attendance upon such person) or who has been convicted of a violation of any of the narcotic or marihuana laws of the United States or of any State thereof, the penalty for which is imprisonment for more than one year, shall register his departure from the United States with the collector of customs at the port of departure on customs Form 3231, Registration Certificate of Narcotic User or Violator. The original shall be given to the registrant who, upon his return to the United States, shall register with the collector of customs at the port of arrival by signing before a customs officer and in the space provided for this purpose on the original and by surrendering the completed form to the customs officer. Any United States citizen subject to the registration requirements of the Narcotic Control Act of 1956 [19a] who had departed from the United States prior to July 19, 1956, the effective date of said act, shall register his return to the United States with the collector of customs at the port of arrival on customs Form 3231. (Sec. 201, 70 Stat. 574; 18 U. S. C. 1407.)

(Sec. 1407, 70 Stat. 574; 18 U. S. C. 1407)

§ 23.10 Maritime Administration vessels; exemption from penalty.

(a) When a vessel owned or chartered under bareboat charter by the Maritime Administration and operated for its account becomes liable for the payment of a penalty incurred for violation of the customs revenue or navigation laws, clearance of the vessel shall not be withheld nor shall any proceedings be taken against the vessel itself looking to the enforcement of such liability.

(b) This exemption shall not in any way be considered to relieve the master of any such vessel or other person incurring such penalties from personal liability for payment.

§ 23.11 Seizures,[20] who may make; search warrants.

(a) Any customs officer having reasonable cause to believe that a violation has been committed of any law, the enforcement of which is within the jurisdiction of the Customs Service, by reason of which any property has become subject to forfeiture, shall seize such property if available. A receipt for seized property shall be given at the time of seizure to the person from whom the property is seized. A collector of customs may adopt a seizure made by a person [21] other than a customs officer if such collector has reasonable cause to believe that the property is subject to forfeiture under the customs laws.

(b) If the duly constituted officials of a State have seized any merchandise, vessel, or vehicle under the provisions of the statutes of such State, such property shall not be seized by customs officers unless it is voluntarily turned over to them to be proceeded against under the Federal statutes.

(c) A customs officer to whom a warrant is issued to search for and seize merchandise is without authority to remove letters and other documents and records, unless they themselves are instruments of crime and are seized as an incident to a lawful arrest.[22]

(d) When acting under a warrant to search the rooms in a building occupied by persons named or described in the warrant, no search shall be made of any rooms in such building which are not described in the warrant as occupied by such persons.

(e) The warrant shall be served in person by the officer to whom it is issued and addressed.

(f) In serving a search warrant, the officer shall leave a copy of the warrant with the person in charge or possession of the premises, together with a receipt for the property seized thereunder. In the absence of any person, the copy and receipt shall be left in some conspicuous place on the premises searched.

(g) A customs officer who is lawfully on any premises and is able to identify merchandise which has been imported contrary to law may seize such merchandise without a warrant.

---

* * * commonly known as the International Opium Convention of 1912, * * *." (21 U. S. C. 182 (a))

[19a] "(a) * * * no citizen of the United States who is addicted to or uses narcotic drugs, as defined in section 4731 of the Internal Revenue Code of 1954, as amended (except a person using such narcotic drugs as a result of sickness or accident or injury and to whom such narcotic drug is being furnished, prescribed, or administered in good faith by a duly licensed physician in attendance upon such person, in the course of his professional practice) or who has been convicted of a violation of any of the narcotic or marihuana laws of the United States, or of any State thereof, the penalty for which is imprisonment for more than one year, shall depart from or enter into or attempt to depart from or enter into the United States, unless such person registers, under such rules and regulations as may be prescribed by the Secretary of the Treasury with a customs official, agent, or employee at a point of entry or a border customs station. Unless otherwise prohibited by law or Federal regulation such customs official, agent, or employee shall issue a certificate to any such person departing from the United States; and such person shall, upon returning to the United States, surrender such certificate to the customs official, agent, or employee present at the port of entry or border customs station.

"(b) Whoever violates any of the provisions of this section shall be punished for each such violation by a fine of not more than $1,000 or imprisonment for not less than one nor more than three years, or both." (18 U. S. C. 1407.)

[20] To constitute a valid seizure there must be an open visible possession claimed and authority exercised by the seizing officer. The parties must understand that they are dispossessed and that they are no longer at liberty to exercise any control over the property. A superior physical force is not necessary to be employed if there is voluntary acquiescence in the seizure and dispossession. A seizure once made, if voluntarily abandoned by the seizing officer, loses its validity.

[21] A person other than a customs officer who makes a seizure does so on his own responsibility if the seizure is not adopted by a collector of customs.

"It shall be the duty of any officer, agent, or other person authorized by law to make seizures of merchandise or baggage subject to seizure for violation of the customs laws, to report every such seizure immediately to the collector for the district in which such violation occurred, and to turn over and deliver to such collector any vessel, merchandise, or baggage seized by him, and to report immediately to such collector every violation of the customs laws." (Tariff Act of 1930, sec. 602; 19 U. S. C. 1602)

[22] "(a) *Warrant.* If any collector of customs or other officer or person authorized to make searches and seizures shall have cause to suspect the presence in any dwelling house, store, or other building or place of any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States contrary to law, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any United States commissioner, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise: * * *

"(b) *Entry upon property of others.* Any person authorized by this Act to make searches and seizures, or any person assisting him or acting under his directions, may, if deemed necessary by him or them, enter into or upon or pass through the lands, inclosures, and buildings, other than the dwelling house, of any person whomsoever, in the discharge of his official duties." (Tariff Act of 1930, section 595; 19 U. S. C. 1595)

"Whoever, being an officer, agent, or employee of the United States or any department or agency thereof, engaged in the enforcement of any law of the United States, searches any private dwelling used and occupied as such dwelling without a warrant directing such search, or maliciously and without reasonable cause searches any other building or property without a search warrant, shall be fined for a first offense not more than $1,000; and, for a subsequent offense, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"This section shall not apply to any person—

"(a) serving a warrant of arrest; or

"(b) arresting or attempting to arrest a person committing or attempting to commit an offense in his presence, or who has committed or is suspected on reasonable grounds of having committed a felony; or

"(c) making a search at the request or invitation or with the consent of the occupant of the premises." (18 U. S. C. 2236)

"Whoever falsely represents himself to be an officer, agent, or employee of the United States, and in such assumed character arrests or detains any person or in any manner searches the person, buildings, or other property of any person, shall be fined not more than $1,000 or imprisoned not more than three years, or both." (18 U. S. C. 913)

(h) This section shall be applicable to the search of buildings on the international boundary line. (See § 5.15 of this chapter.)

§ 23.12 Appraisement of property subject to forfeiture; determination of penalties measured by value.

(a) Seized property shall be appraised as required by section 606, Tariff Act of 1930.[22]

(b) The term "domestic value," applied with respect to such section 606, shall be the price at which such or similar property is freely offered for sale at the time and place of appraisement, in the same quantity or quantities as seized, and in the ordinary course of trade. If there is no market for the seized property at the place of appraisement, such value in the principal market nearest to the place of appraisement shall be reported.

(c) Seized merchandise the importation of which is absolutely prohibited shall be appraised at its foreign-market value, since such merchandise has no domestic value.

(d) For the purpose of condemnation or forfeiture only,[24] the value of all seized merchandise the importation of which is prohibited shall be held not to exceed $2,500.

(e) With respect to property not under seizure, the value to be used as the basis of a claim for forfeiture value or for the assessment of a penalty is the domestic value, which shall be determined or estimated in accordance with paragraph (b) of this section, except that the value shall be fixed as of the date of the violation. In the case of entered merchandise, the date of the violation shall be the date of the entry or the date of the filing of the document or the commission of the act forming the basis of the claim, whichever is later.

(Secs. 606, 608, 46 Stat. 754, 755; 19 U. S. C. 1606, 1608)

§ 23.13 Claims for seized property valued at not over $2,500; bond for costs.

(a) The bond required by section 608, Tariff Act of 1930,[25] to be filed with a claim for any seized property valued at not over $2,500 and subject to summary forfeiture shall be on customs Form 4615 and there shall be endorsed thereon a list or schedule which shall in every case be signed by the claimant in the presence of the witnesses to the bond, and attested by the witnesses. The list or schedule shall be substantially as follows:

List or schedule containing a particular description of seized articles, claim for which is covered by the within bond, to-wit:

The foregoing list is correct.

----------, Claimant.

Attest:

(b) The giving of a bond covering seized property, pursuant to such section 608, shall not be construed to entitle the claimant to possession of the property, but only to stop the summary forfeiture proceedings. (See § 23.21 (c).)

(Sec. 608, 46 Stat. 755; 19 U. S. C. 1608)

§ 23.14 Release on payment of appraised value.

(a) When the appraised domestic value of property seized under the customs laws does not exceed $50,000 and the collector is satisfied that a claimant making a written offer to pay such value pursuant to section 614, Tariff Act of 1930,[26] has, in fact, a substantial interest therein, the collector is hereby authorized to accept such offer and to release such property, provided its entry into the commerce of the United States is not prohibited by law and the claimant or his attorney shall have executed an assent to forfeiture and a waiver of further proceedings on customs Form 4607. In any case where the collector is not satisfied that the proponent has a substantial interest in the seized property or for any other reason believes that it would not be to the interest of the United States to accept the offer, the procedure outlined in paragraph (b) of this section shall be followed.

(b) Any application not covered by paragraph (a) of this section shall be in writing, addressed to the Commissioner of Customs, signed by the claimant or his attorney, and shall contain an assent to forfeiture and a waiver of further proceedings. It shall be submitted in duplicate to the collector for the district in which the property was seized. Proof of ownership shall be submitted with the application if the facts in the case make such action necessary.

(Sec. 614, 46 Stat. 757; 19 U.S.C. 1614)

§ 23.16 Notice of seizure and sale; value not exceeding $2,500; advertisement.

(a) The notice required by section 607, Tariff Act of 1930, as amended,[27] of seizure and intention to forfeit and sell or otherwise dispose of according to law property not exceeding $2,500 in value shall (1) describe the property seized; (2) state the time, cause, and place of seizure; and (3) state that any person desiring to claim the property must appear at a designated place and file with the collector within 20 days from the date of the first publication of the notice a claim to such property and a bond in the sum of $250, in default of which the property will be disposed of in accordance with the law. When the appraised value of the property involved in one seizure from one person exceeds $250, the notice shall be published in a newspaper of general circulation in the customs collection district and the judicial district in which the property was seized. When the appraised value does not exceed $250, the notice shall be published by posting in a conspicuous place accessible to the public in the customhouse nearest the place of seizure and in the customhouse at the headquarters port for the customs collection district, with the date of posting noted thereon, and shall be kept posted for at least 3 successive weeks.

(b) Before seized drugs, insecticides, seeds, plants, nursery stock, and other articles required to be inspected by other Government agencies are sold, they shall be inspected by a representative of such agency to ascertain whether or not they meet the requirements of the law and the regulations of that agency, and, if found not to meet such requirements, they shall be destroyed forthwith.

(Sec. 607, 46 Stat. 754, as amended; 19 U. S. C. 1607)

---

[22] "The collector shall require the appraiser to determine the domestic value, at the time and place of appraisement, of any vessel, vehicle, merchandise, or baggage seized under the customs laws." (Tariff Act of 1930, sec. 606; 19 U. S. C. 1606)

The function of determining the domestic value of seized property under section 606, Tariff Act of 1930 (19 U.S.C. 1606), in any case where the aggregate value of the seizure is not more than $500 has been transferred from the appraiser to the collector, and the supervising customs agent, or other officers of the Customs Agency Service designated by him, have been authorized to perform said function in any case where the aggregate value of the seizure is not more than $100 and the seizure was made by an officer of the Customs Agency Service. (T.D. 55917.)

[24] See sec. 607, as amended, and secs. 610 and 612, Tariff Act of 1930.

[25] "Any person claiming such vessel, vehicle, merchandise, or baggage may at any time within twenty days from the date of the first publication of the notice of seizure file with the collector a claim stating his interest therein. Upon the filing of such claim, and the giving of a bond to the United States in the penal sum of $250, with sureties to be approved by the collector, conditioned that in case of condemnation of the articles so claimed the obligor shall pay all the costs and expenses of the proceedings to obtain such condemnation, the collector shall transmit such claim and bond, with a duplicate list and description of the articles seized, to the United States attorney for the district in which seizure was made, who shall proceed to a condemnation of the merchandise or other property in the manner prescribed by law." (Tariff Act of 1930, sec. 608; 19 U. S. C. 1608)

The costs and expenses secured by the bond are such as are incurred after the filing of the bond, including storage costs, safeguarding, court fees, marshal's costs, etc.

[26] "If any person claiming an interest in any vessel, vehicle, merchandise, or baggage seized under the provisions of this Act offers to pay the value of such vessel, vehicle, merchandise, or baggage, as determined under section 606 of this Act, and it appears that such person has in fact a substantial interest therein, the collector may, subject to the approval of the Secretary of the Treasury if under the customs laws, or the Secretary of Commerce if under the navigation laws, accept such offer and release the vessel, vehicle, merchandise, or baggage seized upon the payment of such value thereof, which shall be distributed in the order provided in section 613 of this Act." (Tariff Act of 1930, sec. 614; 19 U. S. C. 1614)

[27] "If such value of such vessel, vehicle, merchandise, or baggage returned by the appraiser, does not exceed $2,500, the collector shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. For the purposes of this section and sections 610 and 612 of this Act merchandise the importation of which is prohibited shall be held not to exceed $2,500 in value." (Tariff Act of 1930, sec. 607, as amended; 19 U. S. C. 1607)

§ 23.17 Disposition of goods after summary forfeiture; value not exceeding $2,500.

(a) When property has been forfeited pursuant to section 609, Tariff Act of 1930, as amended,[20] the declaration of forfeiture shall be noted on the report of seizure, customs Form 5955. If no petition for relief from the forfeiture is filed or if a petition was filed and has been denied, and the property is not retained for official use, it shall be disposed of in accordance with the regulations of the General Services Administration applicable to the Bureau of Customs.

(b) If the forfeited property is cleared for sale, it shall be sold in accordance with the applicable provisions of Part 20 of this chapter.

(c) The collector may postpone the sale of small seizures until he believes the proceeds of a consolidated sale will pay all expenses.

(d) If a seizure is made under a statute which provides that the property may be seized and proceeded against by libel,[20] the summary forfeiture proceedings set forth in this section and the proceedings set forth in §§ 23.13 and 23.16 do not apply. Such cases shall be referred to the United States attorney.

(Sec. 609, 46 Stat. 755, as amended; 19 U. S. C. 1609)

§ 23.18 Summary sale of seized property.

Seized property of the kinds enumerated in section 612, Tariff Act of 1930,[20] which has not been delivered under bond and is valued at not over $2,500 shall be advertised for sale and sold at public auction at the earliest possible date. Within 24 hours after receipt of the appraiser's report the collector shall proceed to give notice by advertisement of the summary sale for such time as he considers reasonable. This notice shall be of sale only and not the notice of seizure and intention to forfeit and sell provided for in § 23.16. The proceeds of the sale shall be held subject to the claims of parties in interest in the same manner as the seized property would have been subject to such claims.

(Sec. 612, 46 Stat. 756; 19 U.S.C. 1612)

§ 23.19 Transfer of forfeited property to other districts for sale; destruction of forfeited property.

(a) Pursuant to the provisions of section 611, Tariff Act of 1930,[21] if the laws of a State in which property is seized and forfeited prohibit the sale of such property, or if the Commissioner is of the opinion that the sale of forfeited property may be made more advantageously in another customs district, the property shall be moved to and sold in such other customs district as the Commissioner may direct provided it has been cleared for sale pursuant to the regulations of the General Services Administration applicable to the Bureau of Customs.

(b) If, after the summary forfeiture of property is completed, it appears that the proceeds of sale will not be sufficient to pay the costs of sale, the collector may order the destruction of the property. Similarly, property forfeited under a decree of any court may be destroyed if it is provided in the decree of forfeiture that the property shall be delivered to the Secretary of the Treasury for disposition in accordance with section 611, Tariff Act of 1930.

(c) Any vessel or vehicle summarily forfeited for violation of any law respecting the customs revenue may be destroyed in lieu of the sale thereof when such destruction is authorized by the Commissioner of Customs to protect the revenue.[21a] Any such property forfeited under a decree of any court may be destroyed under the same condition if it is provided in the decree of forfeiture that the property shall be delivered to the Secretary of the Treasury for disposition under 19 U. S. C. 1705.

(Sec. 611, 46 Stat. 755, sec. 5, 49 Stat. 519; 19 U.S.C. 1611, 1705)

§ 23.20 Disposition of proceeds of sale.

(a) Expenses incurred by customs officers in connection with seizures and forfeitures shall be paid from the customs appropriation. In the event that the forfeiture property has been authorized for transfer to another Federal agency for official use, the receiving agency shall reimburse the customs appropriation for the costs incurred for moving and storing such property from the date of seizure to the date of delivery. If the property is cleared for sale, the customs appropriation shall be reimbursed from the proceeds of the sale for all expenses paid from such appropriation in connection with the seizure and forfeiture of such property.

(b) If the forfeiture and sale of property is pursuant to court proceedings, or the imposition of a fine or penalty results from a prosecution instituted in a civil or criminal case under the customs laws, the sum recovered, after deducting all proper charges for marshal's fees, court costs, etc., is payable to the collector of customs. Upon receipt of such sum, the collector shall distribute it without delay in accordance with section 613, Tariff Act of 1930, as amended.[22]

(Sec. 613, 46 Stat. 756, as amended; 19 U. S. C. 1613)

---

[20] "If no such claim is filed or bond given within the twenty days hereinbefore specified, the collector shall declare the vessel, vehicle, merchandise or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold, or otherwise dispose of the same according to law and shall deposit the proceeds of sale, after deducting the actual expenses of seizure, publication and sale in the Treasury of the United States." (Tariff Act of 1930, sec. 609, as amended; 19 U. S. C. 1609).

[20] For example: The Insecticide Act, 7 U. S. C. 138; the Federal Caustic Poison Act, 15 U. S. C. 404; the Food and Drugs Act, 21 U. S. C. 14. See Part 12 of this chapter.

[20] "Whenever it appears to the collector that any vessel, vehicle, merchandise, or baggage seized under the customs laws is liable to perish or to waste or to be greatly reduced in value by keeping, or that the expense of keeping the same is disproportionate to the value thereof, and the value of such vessel, vehicle, merchandise, or baggage as determined by the appraiser under section 606 of this Act, does not exceed $2,500, and such vessel, vehicle, merchandise, or baggage has not been delivered under bond, the collector shall, within twenty-four hours after the receipt by him of the appraiser's return proceed forthwith to advertise and sell the same at auction under regulations to be prescribed by the Secretary of the Treasury. If such value of such vessel, vehicle, merchandise, or baggage exceeds $2,500 the collector shall forthwith transmit the appraiser's return and his report of the seizure to the United States district attorney, who shall petition the court to order an immediate sale of such vessel, vehicle, merchandise, or baggage, and if the ends of justice require it the court shall order such immediate sale, the proceeds thereof to be deposited with the court to await the final determination of the condemnation proceedings. Whether such sale be made by the collector or by order of the court, the proceeds thereof shall be held subject to claims of parties in interest to the same extent as the vessel, vehicle, merchandise, or baggage so sold would have been subject to such claim." (Tariff Act of 1930, sec. 612; 19 U. S. C. 1612)

[21] "If the sale of any vessel, vehicle, merchandise, or baggage forfeited under the customs laws in the district in which seizure thereof was made be prohibited by the laws of the State in which such district is located, or if a sale may be made more advantageously in any other district, the Secretary of the Treasury may order such vessel, vehicle, merchandise, or baggage to be transferred for sale in any customs district in which the sale thereof may be permitted. Upon the request of the Secretary of the Treasury, any court may, in proceedings for the forfeiture of any vessel, vehicle, merchandise, or baggage under the customs laws, provide in its decree of forfeiture that the vessel, vehicle, merchandise, or baggage so forfeited, shall be delivered to the Secretary of the Treasury for disposition in accordance with the provisions of this section. If the Secretary of the Treasury is satisfied that the proceeds of any sale will not be sufficient to pay the costs thereof, he may order a destruction by the customs officers: *Provided*, That any merchandise forfeited under the customs laws, the sale or use of which is prohibited under any law of the United States or of any State, may, in the discretion of the Secretary of the Treasury, be destroyed, or remanufactured into an article that is not prohibited, the resulting article to be disposed of to the profit of the United States only." (Tariff Act of 1930, sec. 611; 19 U.S.C. 1611)

[21a] "Any vessel or vehicle forfeited to the United States, whether summarily or by a decree of any court, for violation of any law respecting the revenue, may, in the discretion of the Secretary of the Treasury, if he deems it necessary to protect the revenue of the United States, be destroyed in lieu of the sale thereof under existing law." (19 U. S. C. 1705.)

[22] "* * * If no application for such remission of restoration is made within three months after such sale, or if the application be denied by the Secretary of the Treasury or the Secretary of Commerce, the proceeds of sale shall be disposed of as follows:

"(1) For the payment of all proper expenses of the proceedings of forfeiture and sale, including expenses of seizure, maintaining the custody of the property, advertising and sale, and if condemned by a decree of a district court and a bond for such costs was not given, the costs as taxed by the court;

"(2) For the satisfaction of liens for freight, charges, and contributions in general

reduced in value by keeping, or that the ex- Treasury may order [illegible]

§ 23.21 Forfeiture by court decree; reports to United States attorneys.

(a) When it is necessary to institute legal proceedings in order to forfeit seized property, or to forfeit the value of property subject to forfeiture, or to prosecute by a civil or criminal action for any violation of the customs laws, the collector or the principal local officer of the Customs Agency Service shall furnish a report to the United States attorney,[32]

---

average, notice of which has been filed with the collector according to law; and

"(3) The residue shall be deposited with the Treasurer of the United States as a customs or navigation fine." (Tariff Act of 1930, sec. 613, as amended; 19 U. S. C. 1613)

[32] Judicial proceedings for the forfeiture of seized merchandise must be instituted within the judicial district in which the seizure was made.

Such proceedings for forfeiture under any law of the United States of a seizure made on the high seas may be prosecuted in any judicial district in which the property so seized is brought and proceedings instituted.

The trial of offenses in criminal cases takes place in the judicial district in which the crime was committed, but when the offense is begun in one district and completed in another, it may be tried in either district.

Offenses committed upon the high seas, or elsewhere out of the jurisdiction of any particular state or judicial district, are tried in the judicial district in which the offender is found, or into which he is first brought.

"No suit or action to recover any pecuniary penalty or forfeiture of property accruing under the customs laws shall be instituted unless such suit or action is commenced within five years after the time when the alleged offense was discovered: *Provided*, That the time of the absence from the United States of the person subject to such penalty or forfeiture, or of any concealment or absence of the property, shall not be reckoned within this period of limitation." (Tariff Act of 1930, sec. 621, as amended; 19 U. S. C. 1621)

"In all suits or actions brought for the forfeiture of any vessel, vehicle, merchandise, or baggage seized under the provisions of any law relating to the collection of duties on imports or tonnage, where the property is claimed by any person, the burden of proof shall lie upon such claimant; and in all suits or actions brought for the recovery of the value of any vessel, vehicle, merchandise, or baggage, because of violation of any such law, the burden of proof shall be upon the defendant: *Provided*, That probable cause shall be first shown for the institution of such suit or action, to be judged of by the court, subject to the following rules of proof:

in accordance with the provisions of section 603, Tariff Act of 1930, as amended.[34]

(b) When the appraised value of seized property exceeds $2,500 and neither an application to the Bureau for relief nor an offer to pay the domestic value there-

---

"(1) The testimony or deposition of the officer of the customs who has boarded or required to come to a stop or seized a vessel or vehicle, or has arrested a person, shall be prima facie evidence of the place where the act in question occurred.

"(2) Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise, shall be prima facie evidence of the foreign origin of such merchandise.

"(3) The fact that a vessel of any description is found, or discovered to have been, in the vicinity of any hovering vessel and under any circumstances indicating contact or communication therewith, whether by proceeding to or from such vessel, or by coming to in the vicinity of such vessel, or by delivering to or receiving from such vessel any merchandise, person, or communication, or by any other means effecting contact or communication therewith, shall be prima facie evidence that the vessel in question has visited such hovering vessel." (Tariff Act of 1930, sec. 615, as amended; 19 U. S. C. 1615)

"Upon the entry of judgment for the claimant in any proceeding to condemn or forfeit property seized under any Act of Congress, such property shall be returned forthwith to the claimant or his agent; but if it appears that there was reasonable cause for the seizure, the court shall cause a proper certificate thereof to be entered and the claimant shall not, in such case, be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such suit or prosecution." (28 U. S. C. 2465)

"Execution shall not issue against a collector or other revenue officer on a final judgment in any proceeding against him for any of his acts, or for the recovery of any money exacted by or paid to him and subsequently paid into the Treasury, in performing his official duties, if the court certifies that:

(1) probable cause existed; or

(2) the officer acted under the directions of the Secretary of the Treasury or other proper Government officer.

"When such certificate has been issued, the amount of the judgment shall be paid out of the proper appropriation by the Treasury." (28 U.S.C. 2006)

[34] "Whenever a seizure of merchandise for violation of the customs laws is made, or a violation of the customs laws is discovered, and legal proceedings by the United States attorney in connection with such seizure or discovery are required, it shall be the duty of the collector or the principal local officer of the Customs Agency Service to report such

of, as provided for in § 23.14, is made within a reasonable time, the collector shall report the facts to the United States attorney for the judicial district in which the seizure was made.[35]

(c) If the appraised value of seized property is less than $2,500 and the claimant gives a bond on customs Form 4615, as provided for in § 23.13, within the statutory period, the collector shall likewise report the case to the United States attorney.

(Secs. 603, 610, 46 Stat. 754, as amended, 755; 19 U.S.C. 1603, 1610)

§ 23.22 Bonding of seized property; petition to the court.

When a claimant desires to file a bond for the release of seized property which is the subject of a court proceeding [36] he shall be referred to the United States attorney.

§ 23.23 Fines, penalties, and forfeitures; remission of.

(a) Every offender under the customs or navigation laws shall be advised of any

---

seizure or violation to the United States attorney for the district in which such violation has occurred, or in which such seizure was made, and to include in such report a statement of all the facts and circumstances of the case within his knowledge, with the names of the witnesses and a citation to the statute or statutes believed to have been violated, and on which reliance may be had for forfeiture or conviction." (Tariff Act of 1930, sec. 603, as amended; 19 U. S. C. 1603)

[35] "If the value returned by the appraiser or any vessel, vehicle, merchandise, or baggage so seized is greater than $2,500, the collector shall transmit a report of the case, with the names of available witnesses, to the United States attorney for the district in which the seizure was made for the institution of the proper proceedings for the condemnation of such property." (Tariff Act of 1930, sec. 610; 19 U. S. C. 1610)

[36] "Notwithstanding any provisions of law relating to the return on bond of any vessel or vehicle seized for the violation of any law of the United States the court having jurisdiction of the subject matter, may, in its discretion and upon good cause shown by the United States, refuse to order such return of any such vessel or vehicle to the claimant thereof. * * *" (Internal Revenue Code, sec. 3173 (d); 26 U. S. C. 3173 (d))

The bond prescribed by this section is a substitute for and in lieu of the property released, and the Government, if forfeiture is decreed, is entitled to recover the penal sum of the bond. See *U. S.* v. *Two Trunks*, Fed. Cas. 16592.

fine or penalty incurred by him as well as any liability to forfeiture. Whenever possible, customs officers shall inform each interested person of his right to apply for relief under section 618, Tariff Act of 1930 [37] or any other applicable statute authorizing mitigation or remission of penalties.

(b) In the case of smuggling of articles of small value, demand shall be made for an immediate deposit on account of the penalty incurred in an amount equivalent to the domestic value of the articles whether or not a petition for relief is filed. Such demand need not be made in connection with any liability incurred by the master of a vessel under the provisions of section 453, Tariff Act of 1930.

(c) Except as provided for in § 23.21 (b), if the person liable for any violation of the customs or navigation laws fails to petition for relief or pay the penalty within 60 days from the date of mailing of the notice of violation as provided for in paragraph (a) of this section, the case shall be referred immediately to the United States attorney for appropriate action, unless it appears that the person

---

[37] "Whenever any person interested in any vessel, vehicle, merchandise, or baggage seized under the provisions of this Act, or who has incurred, or is alleged to have incurred, any fine or penalty thereunder, files with the Secretary of the Treasury if under the customs laws, and with the Secretary of Commerce if under the navigation laws, before the sale of such vessel, vehicle, merchandise, or baggage a petition for the remission or mitigation of such fine, penalty, or forfeiture, the Secretary of the Treasury, or the Secretary of Commerce, if he finds that such fine, penalty, or forfeiture, was incurred without willful negligence or without any intention on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine, penalty, or forfeiture, may remit or mitigate the same upon such terms and conditions as he deems reasonable and just, or order discontinuance of any prosecution relating thereto. In order to enable him to ascertain the facts, the Secretary of the Treasury may issue a commission to any customs agent, collector, judge of the United States Customs Court, or United States commissioner, to take testimony upon such petition: *Provided*, That nothing in this section shall be construed to deprive any person of an award of compensation made before the filing of such petition." (Tariff Act of 1930, sec. 618; 19 U. S. C. 1618)

liable for the penalty is absent from the United States or during the said period was absent for more than 30 days, in which event the collector may withhold such action for a further reasonable time, or unless other action is expressly authorized by the Bureau. A decision to mitigate a penalty or to remit a forfeiture upon condition that a stated amount is paid shall be effective for not more than 60 days from the date of notice to the offender of such decision, unless the decision itself prescribes a different effective period or the decision is later amended to change the effective period. If payment of the stated amount is not received within the effective period, the full penalty or forfeiture shall be deemed applicable and shall be enforced. If payment of the stated amount is not made or a supplemental petition filed within the effective period, the matter shall be promptly referred to the United States attorney for appropriate attention, unless other action has been directed by the Bureau.

(d) No action looking to the remission or mitigation of a fine, penalty, or forfeiture shall be taken on any petition, irrespective of the amount involved, if the case has been referred to the Department of Justice for the institution of legal proceedings.

(e) In the case of vessels or vehicles awarded for official use, a petition shall not be considered unless filed before final disposition of the property is made.

(Sec. 618, 46 Stat. 757; 19 U.S.C. 1618)

§ 23.24 Petitions for the remission or mitigation of fines, penalties, and forfeitures, and restoration of proceeds of sale.

(a) Any petition for the remission or mitigation of a fine, penalty, or forfeiture incurred under any law administered by the Bureau of Customs or for the restoration of the proceeds of a sale of property forfeited under the customs laws shall be addressed to the Commissioner of Customs, unless final action thereon may be taken by the collector of customs, in which event it shall be addressed to the collector concerned, and shall be signed by the petitioner and filed with the collector of customs of the district in which the property was seized or the fine or penalty imposed. It shall be filed in duplicate or in triplicate, as required by the collector, and shall set forth a description of the property involved; the date and place of violation or seizure; and the facts relied upon by the petitioner to justify the remission or mitigation. In addition, when the petition is for relief from forfeiture or for the restoration of the proceeds of a sale, it shall show the interest of the petitioner in the property and in appropriate cases shall be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence. If the property was in the possession of another person who was responsible for the act which caused the fine, penalty, or forfeiture, evidence shall be produced as to the manner in which the property came into the possession of such other person. Evidence of any investigation made by the petitioner prior to parting with the property shall also be produced, or the reason for the lack of such investigation given.

(b) A petitioner holding a chattel mortgage or conditional sale contract covering seized property shall submit with his petition evidence showing whether, prior to extending credit, he made a thorough investigation of the moral character and financial responsibility of the mortgagor or purchaser of the property and, if so, whether such investigation showed that the mortgagor or purchaser was a good credit risk or disclosed any facts indicating a probability that the property would be used in violation of law.

(c) When the petition is for the restoration of the proceeds of sale under section 613, Tariff Act of 1930, as amended,[23] it shall be filed within 3 months after the date of sale and shall be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration or decree of forfeiture and was in such circumstances as prevented him from knowing it.

(d) If forfeited property the subject of a claim under such section 613 has been authorized for official use, retention or delivery shall be regarded as the sale thereof for the purposes of the abovementioned section, and the appropriation available to the receiving agency for the purchase, hire, operation, maintenance, and repair of property of the kind so received is available for the granting of relief to the claimant and for the satisfaction of liens for freight, charges, and contributions in general average that may have been filed.[23]

(Secs. 613, 618, 46 Stat. 756, as amended, 757, secs. 305, 306, 49 Stat. 880; 19 U. S. C. 1613, 1618, 40 U.S.C. 304j, 304k)

§ 23.25 Remission, mitigation, or cancellation by collectors.

(a) Fines, penalties, and forfeitures incurred under any law administered by the Bureau of Customs may be mitigated or remitted by the collector of customs concerned in the following cases on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate:[23a]

(1) Fines, and other pecuniary penalties aggregating $500 or less in respect of any one offense.

(2) Penalties of $500 each imposed under the Federal Aviation Act of 1958 for failure to manifest merchandise or for landing merchandise without a permit (see § 6.11 of this chapter), provided the value of the merchandise is under $500.

(3) When imported merchandise or the value thereof has become subject to forfeiture and the merchandise is valued at $500 or less.

(4) When merchandise, other than imported merchandise, has become subject to forfeiture, is valued at $2,000 or less and no liability outside the purview of any subdivision of this paragraph (a) has been incurred in connection with the same offense.

(5) Except as hereinafter provided for, penalties under $500 each imposed against the offender under section 453 or 584, Tariff Act of 1930, as amended, and the penalty of $500 each imposed by section 584 if merchandise described in the manifest is not found on board. The collector of customs at the port of New York may remit or mitigate penalties incurred in his district under section 453 or 584, Tariff Act of 1930, provided the aggregate of the penalties incurred under either or both sections by the offender in the case under consideration does not exceed $1,000.

(6) Fines or other pecuniary penalties, aggregating not more than $2,000 in respect of any one offense, as follows:

---

[23] "Any person claiming any vessel, vehicle, merchandise, or baggage, or any interest therein, which has been forfeited and sold under the provisions of this Act, may at any time within three months after the date of sale apply to the Secretary of the Treasury if the forfeiture and sale was under the customs laws, or to the Secretary of Commerce if the forfeiture and sale was under the navigation laws, for a remission of the forfeiture and restoration of the proceeds of such sale, or such part thereof as may be claimed by him. Upon the production of satisfactory proof that the applicant did not know of the seizure prior to the declaration or condemnation of forfeiture, and was in such circumstances as prevented him from knowing of the same, and that such forfeiture was incurred without any willful negligence or intention to defraud on the part of the applicant, the Secretary of the Treasury or the Secretary of Commerce may order the proceeds of the sale, or any part thereof, restored to the applicant, after deducting the cost of seizure and of sale, the duties, if any, accruing on the merchandise or baggage, and any sum due on a lien for freight, charges, or contribution in general average that may have been filed. * * *" (Tariff Act of 1930, sec. 613, as amended; 19 U. S. C. 1613)

[23] "The appropriation available to any agency for the purchase, hire, operation, maintenance, and repair of property of any kind shall be available for the payment of expenses of operation, maintenance, and repair of property of the same kind received by it under any provision of sections 304g to 304i of this title for official use; for the payment of any lien recognized and allowed pursuant to law, and for the payment of all moneys found to be due any person upon the duly authorized remission or mitigation of any forfeiture; and for reimbursement of other agencies as hereafter provided. The costs of hauling, transporting, towing, and storage of such property shall be paid by the agency which has seized such property or to which it has been abandoned; and, if such property is later delivered to another agency or official under section 304g, 304h, or 304i of this title, the latter shall make reimbursement for all such costs incurred prior to the date of delivery to it of such property." (40 U. S. C. 304j)

"Retention or delivery of forfeited or abandoned property under sections 304g to 304i of this title shall be regarded as the sale thereof for the purpose of laws providing for informer's fees or remission or mitigation of any forfeiture. Any property so acquired when no longer needed for official use shall be disposed of in the same manner as other surplus property." (40 U. S. C. 304k)

[23a] As to remission or mitigation of fines, penalties, and forfeitures in cases of the seizure of unendorsed mail parcels and articles in passengers' baggage, see §§ 9.5 (b) and (c) of this chapter and 23.5 (b), respectively.

TARIFF ACT OF 1930

Section		
436	Failure to report arrival or enter	Master; $1,000.
439	Failure to transmit or deliver copy of manifest	Master; $500.
440	Failure to make or to transmit or deliver post entry	Master; $500.
445	Violation of residue cargo procedures	Master; $500.

TITLE 46, UNITED STATES CODE

22	Master's oath of citizenship false	Master; $1,000.
23	Failure surrender register when vessel lost, captured, broken up or sold foreign.	Master or owner; $500.
30	Failure to surrender temporary register granted upon change of vessel ownership.	Master and owner; $100.
32	Failure to surrender temporary register granted upon purchase of vessel through an agent.	Master and owner; $100.
37	Failure to surrender temporary register granted in lieu of one lost or destroyed.	Master; $100.
38	Failure to surrender outstanding register when re-registration required.	Owner; $500.
40	Failure to report change of master	Master; $100.
45	Failure to mark official number	Owner; $30 each vessel arrival.
46	Failure to mark name and home port	Owner; $10 each name.
77	Failure to mark net tonnage	Owner; $30 each vessel arrival.
91	Clearance violation	Master; $500–$1,000.
101	Failure to report consular fees paid	Bond; up to $1,000.
152	Improper berths for steerage passengers	Master; $50.
153	Improper lighting, air, etc	Master; $5 each passenger.
155	Lack of hospital, surgeon, medicine	Master; $250.
156	Failure to keep discipline, cleanliness, etc	Master; $250.
159	Failure to pay passenger death fee	Master; $250.
265	Failure to surrender temporary register or enrollment upon arrival home port.	Master or consignee; $50 each passenger.
267	Failure to deliver license for renewal or surrender	Master; $100.
276	Failure to report change of master, licensed vessel	Master; $10.
277	Failure to exhibit marine document to inspecting officer	Master; $10.
289	Foreign vessel transporting passengers in coastwise trade	Master; $100.
315	Foreign vessel violating coastwise manifesting and permit procedures.	Owner; $200 each passenger.
316 (a)	Foreign vessel engaging in coastwise towing	Master; $100.
319	Fishing or trading coastwise without license	Owner and master $250–$1,000 each: $50/ton vessel towed.
323	Alteration of vessel papers	Owner; $30 each arrival.
493	Failure to mark steam vessel name on pilot house	Violator; $500.
		Owner; $10 each name omitted.

(7) Forfeitures of merchandise under section 883, title 46, United States Code, illegally transported coastwise, when the merchandise subject to forfeiture is valued at not more than $2,000, or without regard to value if the violation occurred as the direct result of an arrival of the transporting vessel in distress.

(8) Penalties and forfeitures, aggregating under $20,000 in any one case and incurred under section 460, Tariff Act of 1930, as amended, for failure to report as required by section 459, Tariff Act of 1930, as amended, in the following cases:

(i) Violations due to ignorance of the reporting requirements or to inadvertence and either no merchandise, or only typical personal or souvenir merchandise which would have been free of duty, if entered, is carried in the vessel or vehicle, or

(ii) Where the violation is the first offense, although not due to ignorance or inadvertence, and no intended commercial use or threat to the revenue is involved, or

(iii) Pedestrians carrying merchandise of nominal value and no intended commercial use is involved.

(9) Penalties imposed under section 304, title 13, United States Code, and in the amounts prescribed by 15 CFR 30.24, for the failure to timely file the complete manifest of the carrier when required and all required shipper's export declarations, when clearance or permission to depart prior to the filing thereof is granted upon the filing of the required bond.

(b) When the collector is satisfied that a failure to obtain advance permission to land an aircraft elsewhere than at an airport of entry, or a failure to furnish advance notice of the intended arrival of an aircraft, was due to circumstances entirely beyond the control of the violator, and there are no other violations of the customs aircraft regulations, the penalty of $500 imposed for each such offense under the Federal Aviation Act of 1958 is hereby remitted. If any such failure, although not due to circumstances entirely beyond the control of the violator, occurred without intent to violate the law, the penalty incurred for failure to obtain advance permission to land elsewhere than at an airport of entry is hereby mitigated to $10 if advance notice of intended arrival was given; the penalty incurred for failure to give advance notice of arrival, when arrival is made at a designated airport of entry, is hereby mitigated to $25; and the total penalties incurred for failure to obtain advance permission to land elsewhere than at a designated airport of entry and to furnish advance notice of arrival are hereby mitigated to the sum of $25.

(c) When any imported liquor or compound or any vessel or vehicle in which the same has been transported has become subject to forfeiture for noncompliance with section 1263, title 18, United States Code (see § 12.38 of this chapter), and the United States attorney has advised the collector that there is not sufficient evidence of intent to violate the law to warrant criminal prosecution thereunder, the forfeitures incurred are hereby remitted pursuant to the authority of section 7327, Internal Revenue Code and section 618, Tariff Act of 1930, upon the condition that the expenses of seizure, if any, shall be paid.

(d) If the interested party is not satisfied with the collector's decision, he may file a supplemental petition with the collector to be forwarded to the Bureau for reconsideration of the case. A statement to that effect shall be contained in each notification to an interested party of the collector's action on any petition for relief.

(e) If it is definitely determined that the act or omission forming the basis of a penalty or forfeiture claim did not in fact occur, the claim shall be canceled by the collector and appropriate notations shall be made on customs Forms 5211 and 5955, or 5955–A, if the transaction has already been recorded thereon. When the determination of whether or not the claim was erroneously made depends upon a construction of law, the claim shall not be canceled without Bureau approval, unless there is in force a Bureau ruling decisive of the issue. Bureau instructions shall be requested in all doubtful cases.

(Sec. 618, 46 Stat. 757, sec. 1, 40 Stat. 223, as amended, 68A Stat 871; 19 U.S.C. 1618, 22 U.S.C. 401, 26 U.S.C. 7327)

§ 23.26 Compromise of claims.

(a) No offer pursuant to section 617, Tariff Act of 1930, as amended,[40] in which a specific sum of money is tendered in compromise of a Government claim arising under the customs laws, will be considered by the Bureau until it has received due notice that such sum has been properly deposited with the Treasurer of the United States or a Federal reserve bank.[41] If the offer is rejected, the money will be returned to the proponent.

(b) The offer and the terms upon which it is made shall be stated in writing and shall be limited to the civil liability of the proponent in the matter which is the subject of the Government's claim.

(c) The amount offered shall be deposited in the name of the person submitting the offer.

(Sec. 617, 46 Stat. 757, as amended; 19 U. S. C. 1617)

§ 23.27 Claims for compensation to informers.

(a) Any person not an officer of the United States[42] who furnishes infor-

[40] "Upon a report by a collector, district attorney, or any special attorney or customs agent, having charge of any claim arising under the customs laws, showing the facts upon which such claim is based, the probabilities of a recovery and the terms upon which the same may be compromised, the Secretary of the Treasury is hereby authorized to compromise such claim, if such action shall be recommended by the General Counsel for the Department of the Treasury." (Tariff Act of 1930, sec. 617, as amended; 19 U. S. C. 1617)

[41] A proponent at a distance from a Federal reserve bank may perfect his offer by tendering a bank draft for the amount of the offer payable to the Secretary of the Treasury for collection and deposit.

[42] "Any officer of the United States who directly or indirectly receives, accepts, or contracts for any portion of the money which may accrue to any person making such detection and seizure, or furnishing such information, shall be guilty of a felony and, upon conviction thereof shall be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or both, and shall be thereafter ineligible to any office of

mation in accordance with the provisions of section 619, Tariff Act of 1930, as amended,[43] may file a claim for an award of compensation.

(b) Such claim shall be in duplicate on customs Form 4623 and shall be filed with the collector. Any customs officer may receive such a claim for transmittal to the collector. Any additional copies required by the collector to complete his files shall be furnished on demand.

(c) No claim for compensation shall be forwarded to the Bureau unless a sum not less than $5 is available for an award.

(d) No claim under such section 619 shall be paid until the amount recovered has been deposited in the proper account. No such claim shall be paid out of the proceeds of a sale.

(e) Any person whose claim has not for any reason been transmitted by the collector to the Bureau may apply directly to the Commissioner of Customs.

(Sec. 619, 46 Stat. 758, as amended; 19 U. S. C. 1619)

§ 23.28 Inspection of importer's books, records, etc.

Before demanding an inspection of an importer's books, correspondence, or records pursuant to section 511, Tariff Act of 1930,[44] the investigating officer shall present a written request for such inspection signed by the Commissioner of Customs, appraiser, person acting as appraiser, collector, or judge of the United States Customs Court.

(Sec. 511, 46 Stat. 733; 19 U.S.C. 1511)

§ 23.29 Examination of importer and others.

The citation of a person pursuant to section 509, Tariff Act of 1930, as amended,[45] to appear and testify shall be in writing and signed by the proper official. It shall indicate clearly the merchandise or entries concerning which the examination will be held and the documents required to be presented. It shall be addressed to the person to be examined and shall state the specific time when and place where his personal appearance is required. Such citation shall be served in person or by registered mail.

(Sec. 509, 46 Stat. 733, as amended; 19 U. S. C. 1509)

§ 23.30 Bribery of customs officers and employees.

If, upon investigation, it is determined that money or anything of value was given, offered, or promised to a customs officer or employee with a view to controlling or influencing such officer or employee in the performance of his official duties, the matter shall be referred to the United States attorney for prosecution under section 212, Title 18, United States Code."

(Sec. 1, 62 Stat. 693; 18 U.S.C. 212)

§ 23.31 Export controls.

(a) Importations and exportations of arms, ammunition, implements of war, helium gas, and other munitions of war are governed by laws administered by the Department of State, those of narcotic drugs and gold are governed by laws administered by the Treasury Department, and those of atomic energy source material, fissionable material, and equipment and devices for utilizing or producing fissionable material are subject to laws administered by the Atomic Energy Commission.

(b) The exportation of articles, other than those previously mentioned herein, are subject to requirements of laws administered by the Department of Commerce.

(c) All the laws above mentioned are enforced, in whole or in part, by the Customs Service for the administering agencies.

(d) When articles are imported, or are intended to be, are being, or have been, exported from the United States in violation of law, such articles and any vessel,

---

honor, trust, or emolument. Any such person who pays to any such officer, or to any person for the use of such officer, any portion of such money, or anything of value for or because of such money, shall have a right of action against such officer, or his legal representatives, or against such person, or his legal representatives, and shall be entitled to recover the money so paid or the thing of value so given." (Tariff Act of 1930, sec. 620; 19 U. S. C. 1620)

[43] Any person not an officer of the United States who detects and seizes any vessel, vehicle, merchandise, or baggage subject to seizure and forfeiture under the customs laws or the navigation laws, and who reports the same to an officer of the customs, or who furnishes to a district attorney, to the Secretary of the Treasury, or to any customs officer original information concerning any fraud upon the customs revenue, or a violation of the customs laws or the navigation laws perpetrated or contemplated, which detection and seizure or information leads to a recovery of any duties withheld, or of any fine, penalty, or forfeiture incurred, may be awarded and paid by the Secretary of the Treasury a compensation of 25 per centum of the net amount recovered, but not to exceed $50,000 in any case, which shall be paid out of any appropriations available for the collection of the revenue from customs. For the purposes of this section, an amount recovered under a bail bond shall be deemed a recovery of a fine incurred. If any vessel, vehicle, merchandise, or baggage is forfeited to the United States, and is thereafter, in lieu of sale, destroyed under the customs or navigation laws or delivered to any governmental agency for official use, compensation of 25 per centum of the appraised value thereof may be awarded and paid by the Secretary of the Treasury under the provisions of this section, but not to exceed $50,000 in any case." (Tariff Act of 1930, sec. 619, as amended; 19 U. S. C. 1619)

The term "in any case," as used in the statute, has reference to the information furnished and not to the recoveries growing out of such information.

The payment of the award for information furnished concerning violations of the Narcotic Drugs Import and Export Act, as amended, will be made by the court exercising jurisdiction in cases involving violations of that law.

[44] "If any person importing merchandise into the United States or dealing in imported merchandise fails, at the request of the Secretary of the Treasury, or an appraiser, or person acting as appraiser, or a collector, or the United States Customs Court, or a judge of such court, as the case may be, to permit a duly accredited officer of the United States to inspect his books, papers, records, accounts, documents, or correspondence, pertaining to the value or classification of such merchandise, then while such failure continues the Secretary of the Treasury under regulations prescribed by him, (1) shall prohibit the importation of merchandise into the United States by or for the account of such person and (2) shall instruct the collectors to withhold delivery of merchandise imported by or for the account of such person. If such failure continues for a period of one year from the date of such instructions the collector shall cause the merchandise, unless previously exported, to be sold at public auction as in the case of forfeited merchandise." (Tariff Act of 1930, sec. 511; 19 U. S. C. 1511)

[45] "Collectors and appraisers may cite to appear before them or any of them and to examine upon oath, which said officers or any of them are hereby authorized to administer, any owner, importer, consignee, agent, or other person upon any matter or thing which they, or any of them, may deem material respecting any imported merchandise then under consideration or previously imported within one year, in ascertaining the classification or the value thereof or the rate or amount of duty; and they, or any of them, may require the production of any letters, accounts, contracts, invoices, or other documents relating to said merchandise, and may require such testimony to be reduced to writing, and when so taken it shall be filed and preserved, under such rules as the United States Customs Court may prescribe, and such evidence may be given consideration in subsequent proceedings relating to such merchandise." (Tariff Act of 1930, sec. 509; 19 U. S. C. 1509)

"If any person so cited to appear shall neglect or refuse to attend, or shall decline to answer or shall refuse to answer in writing any interrogatories, and subscribe his name to his deposition, or to produce such papers when so required by a judge of the United States Customs Court, or a division of such court, or an appraiser, or a collector, he shall be liable to a penalty of not less than $20 nor more than $500; and if such person be the owner, importer, or consignee, the appraisement last made of such merchandise, whether made by an appraiser, a judge of the United States Customs Court, or a division of such court, shall be final and conclusive against such person; and any person who shall willfully and corruptly swear falsely on an examination before any judge of the United States Customs Court, or division of such court, or appraiser or collector, shall be deemed guilty of perjury; and if he is the owner, importer, or consignee, the merchandise shall be forfeited or the value thereof may be recovered from him." (Tariff Act of 1930, sec. 510; 19 U. S. C. 1510)

[46] "Whoever gives, offers, or promises any money or thing of value, directly or indirectly, to any officer or employee of the United States in consideration of or for any act or omission contrary to law in connection with or pertaining to the importation, appraisement, entry, examination, or inspection of merchandise or baggage, or of the liquidation of the entry thereof, or by threats or demands or promises of any character attempts improperly to influence or control any such officer or employee of the United States as to the performance of his official duties, shall be fined not more than $5,000 or imprisoned not more than two years, or both.

"Evidence, satisfactory to the court, of such giving, offering, or promising to give, or attempting to influence or control, shall be prima facie evidence that the same was contrary to law." (18 U. S. C. 212)

"Moneys received or tendered in evidence in any United States Court, or before any officer thereof, which have been paid to or received by any official as a bribe, shall, after the final disposition of the case, proceeding or investigation, be deposited in the registry of the court to be disposed of in accordance with the order of the court, to be subject, however, to the provisions of section 852 [now 2042] of Title 28." (18 U. S. C. 3612)

vehicle, or aircraft knowingly used in their transportation shall be seized and proceeded against.

(Sec. 5 (b), 40 Stat. 415, as amended, 62 Stat. 716, 748, sec. 502, 68 Stat. 1140, sec. 2, 35 Stat. 614, as amended, secs. 4, 5, 6, 8, 38 Stat. 275, as amended, 277, as amended, sec. 1, 40 Stat. 223, as amended, sec. 12, 54 Stat. 10, as amended, sec. 4, 48 Stat. 340, secs. 4, 7, 60 Stat. 759, 764, sec. 4, 43 Stat. 1111, as amended; 12 U.S.C. 95a, 18 U.S.C. 545, 968, 19 U.S.C. 1595a, 21 U.S.C. 173, 177, 178, 180, 182, 184, 22 U.S.C. 401, 452, 31 U.S.C. 443, 42 U.S.C. 1804, 1807, 50 U.S.C. 165)

§ 23.32 Pollution of coastal and navigable waters.

(a) When any customs officer has reason to believe that any refuse matter is being or has been deposited in navigable waters in violation of section 13 of the act of March 3, 1899 (33 U.S.C. 407) or that oil is being or has been discharged into or upon the coastal navigable waters of the United States in violation of the Oil Pollution Act of 1924 (33 U.S.C. 431–437),[46a] he shall promptly furnish to the collector a full report of the incident, together with the names of the witnesses, and, when practicable, a sample of the material discharged from the vessel in question.

(b) The collector shall forward this report immediately, without recommendation, to the District Engineer of the Department of the Army (at New York to the Supervisor of New York Harbor) for his decision as to prosecution and a copy of each such report shall be furnished to the Bureau.

(c) If the vessel involved is of American registry, a copy of the report shall be furnished also to the District Commander of the Coast Guard District concerned.

(Sec. 13, 30 Stat. 1152, sec. 7, 43 Stat. 605; 33 U.S.C. 407, 436)

§ 23.33 Identification cards.

(a) Each customs employee, other than an officer of the Customs Agency Service, who needs identification in the performance of his official duties shall be furnished an identification card on customs Form 3133 if the employee is required to carry weapons regularly or from time to time. In all other cases customs Form 3135 shall be used.

(b) The Commissioner will issue identification cards in appropriate cases to principal field officers. Each principal field officer shall be the issuing officer for the employees under his jurisdiction.

(c) Special identification cards signed by the Commissioner shall be issued to officers of the Customs Agency Service. All officers of the Customs Agency Service are authorized to carry weapons in the performance of their official duties, and specific authorization is therefore omitted from their identification cards.

(Sec. 581, 46 Stat. 747, as amended; 19 U. S. C. 1581)

§ 23.34 Return of property stolen in Canada.

(a) Any person claiming to be the owner of property stolen in Canada, brought into the United States, and seized by customs authorities for violation of law may file with the collector of customs having custody of the property a petition, addressed to the Secretary of the Treasury, for the release thereof. The petition shall be supported by evidence of ownership in the claimant and shall contain a waiver and release of all possible claims against the United States or any officer thereof for compensation or damages incident to the seizure and detention of the property.

(b) If the collector is satisfied that the claimant is the owner of the property and that it was brought into the United States without collusion on the part of the claimant, the collector may release the property for return to Canada upon the payment of all expenses incident to the seizure and detention thereof. In the event of conflicting claims for the property or any doubt as to the claimant's interest in or right to the property, the collector shall submit the matter to the Commissioner of Customs for decision.

§ 23.35 Customs supervision.[47]

Except as otherwise prescribed in the regulations of this chapter or by instructions from the office of the Secretary of the Treasury or the Bureau in particular cases, whenever any action or thing is required by the regulations of this chapter or by any provision of the customs or navigation laws to be done or maintained under the supervision of customs officers, such supervision shall be direct and continuous or, if the principal customs field officer shall determine that less intensive supervision will assure proper enforcement of the law and protection of the revenue, by such occasional verification as such officer shall direct. Nothing in this section shall be deemed to warrant any failure to direct and furnish a required supervision or to excuse any failure of a party in interest to comply with the prescribed procedures for obtaining any required supervision.

(Sec. 22, 67 Stat. 520; 19 U. S. C. 1646)

[46a] See Appendix VII, Customs Regulations.

[47] "Wherever in this Act any action or thing is required to be done or maintained under the supervision of customs officers, such supervision may be direct and continuous or by occasional verification as may be required by regulations of the Secretary of the Treasury, or, in the absence of such regulations for a particular case, as the principal customs officer concerned shall direct." (Sec. 646, Tariff Act of 1930, as amended, 19 U. S. C. 1646)

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Sec.

24.1 Collection of customs duties, taxes, and other charges.
24.2 Persons authorized to receive customs collections.
24.3 Bills and accounts; receipts.
24.4 Optional method for payment of estimated import taxes on alcoholic beverages upon entry, or withdrawal from warehouse, for consumption.
24.11 Increased or additional duties or taxes; notice to importer.
24.12 Customs fees; charges for storage.
24.13 Car, compartment, and package seals; kind, procurement.
24.14 Salable customs forms.
24.16 Overtime services; overtime compensation; rate of compensation.
24.17 Other services of officers; reimbursable.
24.25 Claims for surplus proceeds of sale of unclaimed merchandise.
24.32 Claims; unpaid compensation of deceased employees and death benefits.
24.34 Vouchers; vendors' bills of sale; invoices.
24.36 Refunds of excessive duties, taxes, etc.
24.70 Claims; deceased or incompetent public creditors.
24.71 Claims for personal injury or damages to or loss of privately owned property.
24.72 Claims; set-off.
24.73 Miscellaneous claims.

AUTHORITY: §§ 24.1 to 24.73 issued under R.S. 161, 251, sec. 624, 46 Stat. 759, sec. 501, 65 Stat. 290, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 140, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 24.1 Collection of customs duties, taxes, and other charges.

(a) Except as provided in paragraph (b) of this section, the following procedure shall be observed in the collection of customs duties, taxes, and other charges:

(1) Any form of United States currency or coin legally current at time of acceptance shall be accepted.

(2) Any bank draft, cashier's check, or certified check drawn on a national or state bank or trust company of the United States or a bank in Puerto Rico or any possession of the United States if such draft or checks are acceptable for deposit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depositary shall be accepted.

(3) An uncertified check drawn by an interested party on a national or state bank or trust company of the United States or a bank in Puerto Rico or any possession of the United States if such checks are acceptable for deposit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depositary shall be accepted if there is on file with the collector of customs an entry bond or other bond to secure the payment of the duties, taxes, or other charges, or if a bond has not been filed, the organization or individual drawing and tendering the uncertified check has been approved by the collector to make payment in such manner. In determining whether an uncertified check shall be accepted in the absence of a bond, the collector shall use available credit data obtainable without cost to the Government, such as that furnished by banks, local business firms, better business bureaus, or local credit exchanges, sufficient to satisfy him of the credit standing or reliability of the drawer of the check.

(4) A United States Government check endorsed by the payee to the collector of customs, a domestic traveler's check, or a United States postal, bank, express, or telegraph money order shall be accepted. Before accepting this form of payment the customs cashier or other employee authorized to receive customs collections shall require such identification in the way of a current driver's license issued by a state of the United States, or a current passport properly authenticated by the Department of State, or a current credit card issued by one of the numerous travel agencies or clubs, or other credit data, etc., from which he can verify the identity and signature of the person tendering such check or money order.

(5) The face amount of a bank draft, cashier's check, certified check, or uncertified check tendered in accordance with this paragraph shall not exceed the amount due by more than $1 and any required change is authorized to be made out of any available cash funds on hand.

(6) The face amount of a United States Government check, traveler's check, or money order tendered in accordance with this paragraph shall not exceed the amount due by more than $20 and any required change is authorized to be made out of any available cash funds on hand.

(b) At piers, terminals, bridges, airports, and other similar places, in addition to the methods of payment prescribed in paragraph (a) of this section, a personal check drawn on a national or state bank or trust company of the United States, shall be accepted by inspectors of customs and other customs employees authorized to receive customs collections in payment of duties, taxes, and other charges on noncommercial importations subject to the identification requirements of subparagraph (4) of paragraph (a) of this section. However, a personal check received under this paragraph and a United States Government check, traveler's check, or money order received under paragraph (a) of this section by such inspectors of customs and other customs employees shall be subject to the following conditions:

(1) Where the amount is less than $100 and the identification requirements of subparagraph (4) of paragraph (a) of this section have been met, the customs employee accepting the check or money order shall show his name and badge number on the collection voucher and on the reverse side of the check or money order as well as the serial number of the voucher or other form of voucher identification so that the check or money order can be easily associated with the voucher. This information shall be shown immediately above the space where the endorsement stamp of the collector will be placed.

(2) Where the amount is $100 or more, in addition to the requirements of subparagraph (1) of this paragraph the customs employee accepting the check or money order shall obtain the approval of the customs officer in charge who also shall personally verify the identification data and indicate his approval by initialing the collection voucher below the signature of the customs employee who approved the receipt of the check or money order.

(3) A personal check tendered in accordance with this paragraph shall be accepted only when drawn for the amount of the duties, taxes, and other charges to be paid by such check.

(c) Checks on foreign banks, foreign travelers' checks, and commercial drafts or bills of exchange subject to acceptance by the drawees shall not be accepted.

(R.S. 3009, 3473, as amended, sec. 1, 36 Stat. 965, as amended, sec. 648, 46 Stat. 762; 19 U.S.C. 197, 198, 1648)

§ 24.2 Persons authorized to receive customs collections.

Deputy collectors of customs in charge of ports of entry, customs cashiers, customs inspectors, customs dock tellers, and such other officers and employees as the collector shall designate shall receive customs collections.

§ 24.3 Bills and accounts; receipts.

(a) Any bill or account for money due the United States shall be rendered by an authorized customs officer or employee on an official form.

(b) Any payor desiring an official receipt shall submit the original bill with his payment. If an official receipt form is provided, the receipt shall be prepared and issued on such form. When no official receipt form is provided, the original bill shall be stamped with the fact and date of payment, initialed or signed by the customs officer to whom the payment is made, and returned to the payor.

(c) If an importer desires a receipt for duties or taxes paid on a formal or appraisement entry, such receipt shall be given on a copy of customs Form 5101 or on a copy of the entry, whichever is presented for that purpose by the person making the entry.

(d) Every payment which is not made in person shall be accompanied by the original bill or by a communication containing sufficient information to identify the account or accounts to which it is to be applied.

(e) A bill for duties, taxes, or other charges is due and payable upon receipt thereof by the debtor.

§ 24.4 Optional method for payment of estimated import taxes on alcoholic beverages upon entry, or withdrawal from warehouse, for consumption.

(a) *Application to defer.* An importer, including a transferee of alcoholic beverages in a customs bonded warehouse, who wishes to pay on a semimonthly basis the estimated import taxes on alcoholic beverages entered, or withdrawn from warehouse, for consumption by him during such a period may apply by letter to the collector of customs of each district in which he

wishes to defer payment. The application must identify the ports at which the importer wishes to use the tax deferral procedure. An importer who receives approval from a collector of customs to defer such payments may, however, continue to pay the estimated import taxes due at the time of entry, or withdrawal from warehouse, for consumption.

(b) *Deferred payment periods.* The periods shall be the 9th day of a month through the 23d day of the same month and from the 24th day of that month through the 8th day of the next month. An importer may begin the deferral of payments of estimated tax in a customs collection district in the first deferral period beginning after the date of the written approval by the collector of customs of such district. An importer may in such district use the deferred payment system until the collector of customs advises such importer that he is no longer eligible to defer the payment of such taxes.

(c) *Content of application and supporting documents.* (1) An importer must state his estimate of the largest amount of taxes to be deferred in any semimonthly period based on the largest amount of import taxes on alcoholic beverages deposited in that district in such a period during the year preceding his application. He must also identify any existing bond or bonds that he has on file in the district and the port or ports for which filed and shall submit in support of his application the approval of the surety on his bond or bonds to the use of the procedure and to the increase of such bond or bonds to such larger amount or amounts as may be found necessary by the collector of customs. He must identify in his application all ports in the district where he intends to file entries or withdrawals from warehouse for consumption for which taxes are to be deferred.

(2) Each application must include a declaration in substantially the following language:

> I declare that I am not presently barred by a collector of customs in any other district from using the deferred payment procedure for payment of estimated taxes upon imports of alcoholic beverages, and that if I am notified by a collector of customs to such effect I shall advise the collectors of customs of all other districts where approval has been given to me to use such procedure.

(d) *Use of deferred payment method.* (1) The collector of customs will notify the importer, or his authorized agent if requested, of approval and will at the same time notify all ports in his district at which the procedure will be used according to the importer's application.

(2) An importer who has received approval to make deferred payments retains the option of deferring or depositing the estimated tax on imported alcoholic beverages until the entry or withdrawal is presented to the cashier for payment of estimated duties. At such time the importer must either pay the estimated tax or present with the withdrawal a set of deferred tax payment forms, together with the estimated duty.

(e) *Deferred payment documents; preparation and use.* (1) In the case of a withdrawal from warehouse or an entry for consumption, the deferred tax payment forms are required in sets of three. Each set must be yellow copies of the customs Form 7505, Warehouse Withdrawal for Consumption, or of customs Form 7501, Consumption Entry. The procedure is not available on informal entry for consumption. Each set must have one copy lettered "A", one copy lettered "B", and one copy lettered "C" at the lower right corner of the form. Such letters must be capitalized and may be printed, stamped, or written in ink or indelible pencil in black or dark blue in print no smaller than that used in the title of the form.

(2) The importer or his agent shall, if deferment is elected, stamp "Tax Deferred" or "Tax Payment Deferred" adjacent to the amount shown on the entry or withdrawal form as the estimated taxes before presentation to the cashier. This must be stamped on each copy of the entry or withdrawal form, including the permit and release copy, but need not be on the deferred payment forms. The entry or withdrawal must be presented to the cashier with the set of deferred tax payment forms. The importer or his agent must also insert the entry and withdrawal number, if any, on each copy of the deferred tax payment forms before presenting them unless the number will be assigned and inserted by the cashier.

(3) After receipt of the entry or the withdrawal and deferred payment forms properly executed together with the estimated duty, the cashier shall number all deferred payment forms in a separate series and return to the importer or his agent the B and C copies of the deferred payment forms. The A copy is retained by customs. If B and C copies are lost by an importer, he must prepare new B and C copies for timely filing with the tax payments when due.

(f) *Deposit of deferred tax payments.* (1) On or before the last day of the deferred payment period (8th and 23d day of each month), the importer must present in numerical sequence the B and C copies for each deferral of tax on an entry or withdrawal made during the period to the cashier along with payment covering all estimated taxes due on such entries and withdrawals. When the last day of the deferred payment period ends on a day other than one specified in § 1.8(a) of this chapter as a day for the transaction of general customs business, payment must be made on the next such business day. The cashier will receipt and return as soon as possible each C copy to the importer for his record of payment. However, if an importer advises the collector of customs in writing that he does not want a receipt, this and other provisions for the use of a C copy shall not be applicable.

(2) If a shipment is released under the immediate delivery procedure in § 8.59 of this chapter in one deferral period and the time for filing entry, including any authorized extension of such time, falls into another such period, all estimated taxes must be paid on or before the due date of the latter period.

(g) *Restrictions on deferring tax deposits.* (1) An importer may not on one entry, or withdrawal from warehouse, for consumption deposit part of the estimated tax and present deferred tax payment forms for the balance of the tax. The estimated tax on each entry or withdrawal must be either fully paid or be fully covered by a deferred tax payment form.

(2) The estimated tax shown on the deferred tax payment form and the estimated tax shown on the entry, or withdrawal from warehouse, for consumption must be the same. At the time of presenting the payment covering deferments of estimated taxes for a period, the deposit must be in the exact amount of the total of all such deferments.

(3) On the last day of a deferment period, all entries or withdrawals from warehouse for consumption on such day must be accompanied by the deposit of the estimated tax. No deferral of estimated tax is permitted on the last day of the deferment period.

(h) *Termination of deferred payment privilege.* (1) When any tax shown on an A copy of the deferred tax payment form is unpaid after the due date, the importer shall be immediately notified and a notice of monies due shall be sent to the importer and a copy to the surety on his bond. If in the opinion of the collector, such failure to make timely payment of estimated taxes deferred warrants the withdrawal of the tax deferral privilege, he will advise the importer of the withdrawal of such privilege. In all instances of failure, in part or in full, to pay timely the deferred taxes on alcoholic beverages withdrawn from warehouse for consumption, further withdrawals from the warehouse entry on which the tax is delinquent will be refused until payment is made of the amount delinquent. Any delinquent payment must be accompanied by B and C copies of the deferred tax payment form.

(2) The termination in any district of the tax deferral privileges for failure to pay timely any deferred estimated tax, or for failure to support such payments with B and C copies of the deferred tax payment form, shall be at the discretion of the collector of customs. Termination of the privileges for any other reason shall be subject to the approval of the Commissioner of Customs.

(3) Renewal of the tax deferral privilege after it has been withdrawn in any District may be made only upon approval by the Commissioner of Customs.

(i) *Renewal of importer's bond.* At the time of each renewal of a customs bond to which has been added a stipulation as to deferred tax payment, concurred in by the surety, the parties shall indicate in writing their agreement to the continuation of the stipulation for the term of the renewal.

(j) *Entries for consumption or warehouse after an importer is delinquent.* An importer who is delinquent in paying deferred taxes may make entries for consumption or for warehousing, or withdrawals for consumption from warehouse entries on which no delinquency exists, upon deposit of all estimated duties or taxes.

(k) *Rate of tax.* The estimated taxes must be paid on the basis of the rates in effect upon entry, or withdrawal from warehouse, for consumption, unless in accordance with section 315 of the Tariff Act of 1930, as amended, another date is applicable and not on the basis of the rates of tax in effect on the date deferred payment is made.

(Sec. 201, 72 Stat. 1322, 1334, 1335, 68A Stat. 917; 26 U.S.C. 5007, 5054, 5061, 7805)

§ 24.11 Increased or additional duties or taxes; notice to importer.

(a) Any increased or additional duties or taxes found due upon liquidation shall be billed on customs Form 5107 to the importer of record or to the actual owner when there shall have been filed:

(1) A declaration of the actual owner on customs Form 3347 in accordance with section 485(d), Tariff Act of 1930, and the regulations in this part; and

(2) The superseding bond of the actual owner on customs Form 7601, as provided for in §§ 8.18(d) and 25.4(a) (32) of this chapter.

(b) In any case in which a timely owner's declaration, but not a timely superseding bond, has been filed, and the collector of customs is of the opinion that because of special circumstances the collection of the increased or additional duties should be effected under the timely owner's declaration, he shall report the facts to the Bureau and await instructions.

(Secs. 483, 485(d), 46 Stat. 721, 724; 19 U.S.C. 1483, 1485(d))

§ 24.12 Customs fees; charges for storage.

(a) A table of the rates of fees prescribed by law or hereafter in this paragraph shall be kept posted in each collector's, surveyor's, and comptroller's office. When payment of such fee is received by any customs employee a receipt therefor shall be issued.

(1) A customs fee in the amount indicated shall be collected for each application for the following actions whether the action requested is granted or denied:

(i) Recording a trademark, trade name, or copyright, $75; recording a renewal or change of ownership of a trademark or copyright, $35. (See §§ 11.15, 11.16, and 11.19 of this chapter.)

(ii) Designating a carrier as a carrier of customs bonded merchandise, $45. (See § 18.1 of this chapter.)

(iii) Establishment of a customs bonded warehouse, $65. (See § 19.2 of this chapter.)

(iv) Issuance of a customs cartage or lighterage license, $45. (See § 21.1 of this chapter.)

(v) Issuance of a customhouse broker's license, $100.

The fee in subdivision (iii) of this subparagraph shall be assessed and collected for an application requesting the initial establishment of a customs bonded warehouse or for the rebonding of a warehouse after its discontinuance. Such fee shall not be collected for action in connection with the discontinuance or alteration of a customs bonded warehouse or the reactivation of such a warehouse after its temporary suspension.

(2) Unless otherwise prescribed by law, a fee of 20 cents shall be collected for each official certification.

(3) A customs fee of $120 shall be collected for each application for the furnishing, for a period of 60 days, the names and addresses of importers of articles appearing to infringe a registered patent. Where this information is furnished for a second period of 60 days, an additional fee of $120 shall be collected.

(4) A charge of $4.20 shall be made for an annual subscription to the Monthly Supplement to "Merchant Vessels of the United States." Subscriptions shall be addressed to the Bureau of Customs and shall be accompanied by a remittance in that amount.

(b) Except for services within the purview of section 1 of the act of June 9, 1886, as amended (46 U. S. C. 331), or subsection I of the Ship Mortgage Act of 1920 (46 U. S. C. 927),[**] the following charges shall be made:

(1) Whenever files are searched to obtain records for private parties, whether for copying by them or for examination, a charge shall be made, based upon the actual time and salary of the employee, computed in multiples of 1 minute based on an hourly rate computed in accordance with § 19.5 (b) of this chapter, but no charge shall be made for such service where the amount, so computed, is less than 50 cents. Where the amount, so computed, is 50 cents or more, but less than $1, a minimum charge of $1 shall be made. There shall be included in computing the cost of such labor any amount actually payable to the employee for performing such service outside his basic 40-hour workweek. However, no charge shall be made under this subparagraph for any service rendered in making an entry and related documents available for examination by authorized persons prior to liquidation of the entry or during any period thereafter in which a timely protest may be filed against the liquidation or reliquidation of the entry.

(2) If any copy of a customs record is made by a customs employee for a party in interest, such party shall reimburse the Government for the actual cost of material, labor, including that used in searching for the record, and any required postage. The charge for labor shall be computed as prescribed in subparagraph (1) of this paragraph, but a minimum total charge of $1 shall be imposed for each order. For copying by mechanical methods the charge shall be based on the prevailing rates established by private concerns in the locality, provided that such charge shall not be less than an amount computed according to the following minimum scale of charges with a minimum total charge of $1 for each order:

Methods and sizes	First copy of each page (one side)	Additional copies of the same page
Photocopy paper negatives and prints (including photostat prints):		
Up to 9 x 12	20 cents each	15 cents each.
12 x 18 (two 9 x 12 units).	30 cents each	25 cents each.
18 x 24 (four 9 x 12 units).	50 cents each	45 cents each.
Photographic film negatives and prints (single weight paper): Approximately 8 x 10½.	$1.90 (incl. negative).	50 cents each.

(3) In any case where a search of the files is necessary to verify the correctness of a document which is to be certified by a customs employee, and for which a fee of 20 cents is charged, a separate charge for the time required for searching shall be made. This charge shall be computed as prescribed in subparagraph (1) of this paragraph, but shall not be imposed if the amount is less than 50 cents. If the amount, so computed, is 50 cents or more, but less than $1, a minimum charge of $1 shall be made.

(c) The rates charged for storage in Government-owned or rented buildings shall not be less than the charges made at the port by commercial concerns for the storage and handling of merchandise. Except as to an examination package covered by an application for an entry by appraisement, storage shall be charged on any examination package for any period it remains in the appraiser's store after 2 full working days following the day on which the permit to release or transfer was issued. As to an examination package covered by an application for an entry by appraisement, storage shall be charged for any period it remains in the appraiser's store after 2 full working days following the day of issuance to the importer of oral or written notice of the amount of duties or taxes required to be deposited or that the package is ready for delivery. In computing the 2 working days, (1) the day on which the permit to release or transfer is issued, or the day on which the notice is issued of the amount of duties or taxes that shall be deposited or that the package is ready for delivery, whichever is applicable, (2) Saturdays, (3) Sundays, and (4) National holidays, shall be excluded.

(Sec. 501, 65 Stat. 290, R.S. 2654, as amended, 4383, as amended, sec. 30, subsec. I, 41 Stat. 1002, as amended, sec. 524, 46 Stat. 741, as amended; 5 U.S.C. 140, 19 U.S.C. 58, 1524, 46 U.S.C. 383, 927)

§ 24.13 Car, compartment, and package seals; kind, procurement.

(a) Tyden seals, manufactured by The Tyden Corporation, Hastings, Mich., and automatic metal seals, manufactured by the International Seal & Knot Protector Co., 58–02—37th Avenue, Woodside 77, New York, N.Y., shall be used in sealing openings, packages, or articles requiring the security provided by such sealing.

(b) In-bond seals used for sealing imported merchandise shipped between ports in the United States shall be colored red and stamped "U.S. Customs in Bond," except that (1) bright green seals shall be used to seal carload or truckload shipments of merchandise and (2) uncolored seals shall be used to seal containers of commercial travelers' samples moving

[**] For fees under 46 U. S. C. 927, see § 4.98 of this chapter.

in-transit between Canadian ports through the United States in bond as provided for by § 5.11 (b) and (c) of this chapter. Such green seals used on railroad cars shall be stamped

CAN. CUSTOMS,
U.S. TRANSIT

those used on trucks stamped H.W.

CAN. CUSTOMS,
U.S. TRANSIT

and the uncolored seals used on containers of commercial travelers' samples stamped CANADA-UNITED STATES CUSTOMS. In-transit seals used for sealing merchandise shipped from one port in the United States through foreign territory or waters to another port in the United States shall be colored blue and stamped "U.S. Customs In-Transit," except that in-transit seals used on carload or truckload shipments of merchandise or on containers of commercial travelers' samples moving in transit between United States ports via Canada shall be colored yellow. Such yellow seals used on railroad cars shall be stamped [U.S. Customs / Can. Transit], those used on trucks stamped [H. W. U.S. Customs, / Can. Transit] and those used on containers of commercial travelers' samples stamped "United States-Canada Customs." Seals used for sealing merchandise for customs purposes other than for (1) shipping in bond, (2) shipping by other than a bonded common carrier in accordance with section 553, Tariff Act of 1930, as amended, or (3) shipping in transit shall be uncolored and stamped "U.S. Customs." All seals (except green in-transit seals for use on trucks and uncolored in-transit seals on containers of commercial travelers' samples) shall be stamped with the name of the port for which they are ordered. Each Tyden seal shall be stamped with a serial number. Each automatic metal seal shall be stamped with a symbol number and, when required, with a serial number. These numbers will be assigned by the collector of customs when the orders therefor are approved.

(c) Carriers of merchandise or their commercial associations or comparable representatives approved by the collector (see paragraph (f) of this section) shall purchase quantity supplies of in-bond and in-transit seals from the manufacturers of approved seals, but their orders for said seals (except the aforesaid green and uncolored in-transit seals) shall be submitted to the collector of customs at the headquarters port of the customs district for authorization, assignment of numbers and symbols, and forwarding to the manufacturer. The order shall be prepared by the purchaser and shall be confined to seals for use at one port, and shall specify the kind and quantity of seals desired, the name of the port at which they are to be used, and the name and address of the consignee to whom they are to be shipped. Carriers may purchase small emergency supplies of in-bond and intransit seals from collectors of customs, who will keep a supply of such seals for this purpose. An order for green or uncolored in-transit seals shall be submitted to the office of the Director of Customs-Excise Inspection, Ottawa, Canada, for approval and forwarding to the manufacturer. An order for green Tyden in-bond seals for use on railroad cars must stipulate that the seals are to be consigned to the collector of customs and excise in Canada at the port indicated on the seals for entry purposes and storage under customs lock and key.

(d) The manufacturer shall ship the seals to the consignee named in the order and shall advise the collector of customs for the customs district to which the seals are shipped as to the kind and quantity of seals shipped, the name of the port and the serial numbers or symbol number stamped thereon, the name and address of the consignee, and the date of shipment. When a shipment of seals is received, the consignee, if other than a collector of customs, shall immediately deliver it intact into customs custody.

(e) Except as hereinafter provided, only such quantities of seals as are required for the immediate use of a carrier shall be issued from the stock in customs custody. Where the needs of a port justify the issuance of larger quantities of red Tyden in-bond or blue Tyden in-transit seals and the collector is satisfied that a larger quantity may be safely issued upon the carrier's undertaking to account for the use made of the seals, he may, upon written application of the carrier, approve the issuance of a quantity sufficient to meet the carrier's needs for such period as he deems reasonable and proper. In such application the carrier shall agree to store the seals in a well-protected place approved by the collector and to keep and provide information, in the form, time, and manner prescribed by the collector, showing the use of the seals issued to it. As used in this regulation, the term "carrier" does not include an association or other entity of which the carrier is a member.

(f) In-bond seals may be purchased only by a customs bonded carrier, by a nonbonded carrier permitted to transport articles in accordance with section 553 of the tariff act, as amended, or in the case of red in-bond seals, by the carrier's commercial association or comparable representative approved by the collector. In-transit seals may be purchased by a bonded or other carrier of merchandise or, in the case of blue in-transit seals, by the carrier's commercial association or comparable representative approved by the collector. Except for uncolored in-transit seals, uncolored customs seals may not be purchased by private interests and shall be furnished by collectors of customs for authorized use without charge. In-bond and in-transit seals sold by collectors of customs shall be charged for at the rate of 10 cents per seal.

§ 24.14 Salable customs forms.

(a) Customs forms for sale to the general public shall be designated by the Commissioner of Customs. Customs forms which are designated as salable shall meet the following conditions: (1) The form is distributed to private parties for use in completing customs transactions; (2) the quantity used nationwide annually is sufficient to justify the administrative costs involved in selling the form and accounting for the collections involved therein, or the form is primarily for the use of a special group; (3) distribution is or can generally be made in lots of 100 or more; (4) the form is normally distributed to commercial concerns (customhouse brokers, freight forwarders, vessel agents, carriers, regular commercial importers, etc.) rather than to or for the use of individuals or others (tourists, churches, schools, occasional importers, etc.) for noncommercial purposes.

(b) The price of each salable customs form shall be established by the Commissioner of Customs and shall be adjusted periodically as the varying costs of printing and distribution require. A list of salable customs forms showing the price at which each is sold shall be prominently posted in each customhouse in a location accessible to the general public.

(c) Customs forms for sale to the general public, except unusually large or otherwise unsuitable forms, shall normally be prepared in units containing 100 copies. If a completely prepared bill or receipt is presented by the purchaser at the time of the purchase, the collector's paid stamp shall be impressed thereon; otherwise, no receipt shall be given.

(Sec. 1, 37 Stat. 434; 19 U.S.C. 1)

§ 24.16 Overtime services; overtime compensation; rate of compensation.

(a) *General.* Customs services for which overtime compensation is provided for by section 5 of the Act of February 13, 1911, as amended (19 U. S. C. 267),[2] or

[2] "The Secretary of the Treasury shall fix a reasonable rate of extra compensation for overtime services of inspectors, storekeepers, weighers, and other customs officers and employees who may be required to remain on duty between the hours of five o'clock postmeridian and eight o'clock antemeridian, or on Sundays or holidays, to perform services in connection with the lading or unlading of cargo, or the lading of cargo or merchandise for transportation in bond or for exportation in bond or for exportation with benefit of drawback, or in connection with the receiving or delivery of cargo on or from the wharf, or in connection with the unlading, receiving, or examination of passengers' baggage, such rates to be fixed on the basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond five o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from five o'clock postmeridian to eight o'clock antemeridian), and two additional days' pay for Sunday or holiday duty. The said extra compensation shall be paid by the master, owner, agent, or consignee of such vessel or other conveyance whenever such special license or permit for immediate lading or unlading or for lading or unlading at night or on Sundays or holidays shall be granted to the collector of customs, who shall pay the same to the several customs officers and employees entitled thereto according to the rates fixed therefor by the Secretary of the Treasury. Such extra compensation shall be paid if such officers or employees have been ordered to report for duty and have so reported, whether the actual lading, unlading, receiving, delivery, or examination takes place or not. In those ports where customary working hours are other than those herein-

section 451, Tariff Act of 1930, as amended,[4] shall be furnished only upon compliance with the requirements of those statutes for applying for such services and giving security for the reimbursement of the overtime compensation, unless the compensation is nonreimbursable under the said section 451. Reimbursements of overtime compensation shall be collected by the collectors from the applicants for the services. Customs employees shall not receive overtime compensation for services performed on regular tours of duty at night, but no regular tour of duty shall embrace any part of a Sunday or holiday if the services performed are such that extra compensation would be payable if performed at the request of a private interest. Reimbursable overtime services shall not be furnished to an applicant who fails to cooperate with the Customs Service by filing a seasonable application therefor during regular hours of business when the need for the services can reasonably be foreseen, nor in any case until the maximum probable reimbursement is adequately secured.

(b) *Night, Sunday, and holiday defined.* For the purposes of this section the word "night" shall mean the time between 5 p. m. of any day and 8 a. m. of the following day, or between the corresponding hours at ports or stations where regular hours for the transaction of the general class of customs business involved other than those from 8 a. m. to 5 p. m. have been established to agree with local prevailing working hours, but shall not include any such time within the 24 hours of a Sunday or holiday. The night hours at the end of the regular workday immediately preceding a Sunday or holiday and the night hours at the beginning of the next regular workday shall be considered for the purposes of this section as parts of a single night. For such purpose the term "holiday" shall include only days on which customs employees generally are not required to work and which are usually observed as national holidays.[5] The time accounted for as overtime shall be computed on the basis of the regular hours for the performance of the particular work of the assignment, even though such hours differ from the regular working hours of the employee assigned,[5a] but no extra compensation shall be paid pursuant to this section for any services performed by an employee at his regular post or elsewhere during a regular tour of duty of such employee.

(c) *Application and bond.* (1) Except as provided for in subparagraph (2) of this paragraph, an application for services of customs employees at night or on a Sunday or holiday, customs Form 3171, 3851, or 3853, supported by the required cash deposit or bond, shall be filed in the office of the collector before the assignment of such employees for reimbursable overtime services. The cash deposit to secure reimbursement shall be fixed by the collector or his authorized representative in an amount sufficient to pay the maximum probable compensation and and expenses of the customs employees in connection with the particular services requested. The bond to secure reimbursement shall be on customs Form 7597 or 7599 and in an amount to be fixed by the collector, unless another bond containing a provision to secure reimbursement is on file.

(2) Prior to the expected arrival of a pleasure vessel or private aircraft the collector may designate a customs employee to proceed to the place of expected arrival to receive an application for night, Sunday, or holiday services in connection with the arrival of such vessel or aircraft, together with the required cash deposit or bond. In each such case the assignment to perform services shall be conditional upon the receipt of the appropriate application and security.

(3) An application on customs Form 3853 for overtime services of customs employees, when supported by the required cash deposit or bond on customs Form 7599, may be granted for any period not longer than for 1 year nor longer than the period of the supporting bond. In such a case, the application must show the exact times when the overtime services will be needed, unless arrangements are made so that the proper customs officer will be seasonably notified during official hours in advance of the services requested as to the exact times that the services will be needed.

(d) *Assignment.* Customs employees may be ordered to report for any overtime duty sufficiently in advance of the time specified by the applicant to avoid unnecessary delay, but in no case more than 1 hour in advance of the time so specified unless the specified time is subject to change without reasonable notice as in the case of some aircraft arrivals. If no time can be specified for the services to begin, the employees required and

---

above mentioned, the collector of customs is vested with authority to regulate the hours of customs employees so as to agree with prevailing working hours in said ports, but nothing contained in this section shall be construed in any manner to affect or alter the length of a working day for customs employees or the overtime pay herein fixed." (19 U. S. C. 267)

[4] "Before any such special license to unlade shall be granted, the master, owner, or agent of such vessel or vehicle, or the person in charge of such vehicle, shall be required to deposit sufficient money to pay, or to give a bond in an amount to be fixed by the Secretary conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with such unlading at night or on Sunday or a holiday, in accordance with the provisions of section 5 of the Act of February 13, 1911, as amended (U. S. C., 1952 edition, title 19, sec. 267). In lieu of such deposit or bond the owner or agent of any vessel or vehicle or line of vessels or vehicles may execute a bond in an amount to be fixed by the Secretary of the Treasury to cover and include the issuance of special licenses for the unlading of such vessels or vehicles for a period not to exceed one year. Upon a request made by the owner, master, or person in charge of a vessel or vehicle, or by or on behalf of a common carrier or by or on behalf of the owner or consignee of any merchandise or baggage, for overtime services of customs officers or employees at night or on a Sunday or holiday, the collector shall assign sufficient customs officers or employees if available to perform any such services which may lawfully be performed by them during regular hours of business, but only if the person requesting such services deposits sufficient money to pay, or gives a bond in an amount to be fixed by the collector, conditioned to pay the compensation and expenses of such customs officers and employees, who shall be entitled to rates of compensation fixed on the same basis and payable in the same manner and upon the same terms and conditions as in the case of customs officers and employees assigned to duty in connection with lading or unlading at night or on Sunday or a holiday. Nothing in this section shall be construed to impair the existing authority of the Treasury Department to assign customs officers or employees to regular tours of duty at nights or on Sundays or holidays when such assignments are in the public interest: *Provided*, That the provisions of this section, sections 450 and 452 of this Act, and the provisions of section 5 of the Act of February 13, 1911, as amended (U. S. C., title 19, sec. 267), insofar as such section 5 requires payment of compensation by the master, owner, agent, or consignee of a vessel or conveyance, shall not apply to the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, nor to the lading or unlading of merchandise, baggage, or persons arriving in or departing from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry. At ports of entry and customs stations where any merchandise, baggage, or persons shall arrive in or depart from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, the collector, under such regulations as the Secretary of the Treasury may prescribe, shall assign customs officers and employees to duty at such times during the twenty-four hours of each day, including Sundays and holidays, as the Secretary of the Treasury in his discretion may determine to be necessary to facilitate the inspection and passage of such merchandise, baggage, or persons. Officers and employees assigned to such duty at night or on Sunday or a holiday shall be paid compensation in accordance with existing law as interpreted by the United States Supreme Court in the case of the United States v. Howard C. Myers (320 U. S. 561); but all compensation payable to such customs officers and employees shall be paid by the United States without requiring any license, bond, obligation, financial undertaking, or payment in connection therewith on the part of any owner, operator, or agent of any such highway vehicle, bridge, tunnel, or ferry, or other person. As used in this section, the term 'ferry' shall mean a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement as above provided." (Tariff Act of 1930, sec. 451, as amended; 19 U. S. C. 1451)

[5] The days usually observed as national holidays are: January 1, February 22, May 30, July 4, the first Monday in September, November 11, Thanksgiving Day, and December 25.

[5a] For example: At a port where the regular hours of business have been fixed at 8 a. m. to 4 p. m. for the inside force and 7 a. m. to 4 p. m. for the outside force, a clerk whose regular working hours are 8 a. m. to 4 p. m. is not entitled to reimbursable extra compensation if assigned to inspectional work from 7 a. m. to 8 a. m. on a week day, since he works within the regular hours for the service to which he is assigned.

or on Sundays or holidays when such assign-

available shall be assigned to the overtime duty as soon as practicable. Customs employees shall not be deemed available to perform reimbursable overtime services at night unless the total time of service, including waiting time, will be at least one hour, but nothing in this section shall prohibit the collector or other administrative officer from requiring an employee to perform, before he leaves his duty status and without extra compensation under the act of February 13, 1911, as amended, any work which is pending at the beginning of the night and can be completed in less than 1 hour. No customs employee shall be assigned on a weekday, or for more than an aggregate of 8 hours on a Sunday or holiday, to any overtime service for which nonreimbursable extra compensation is payable, except under special authorization from the Commissioner of Customs.

(e) *Nonperformance of requested services.* If services which have been requested and for which employees have reported are not performed by reason of circumstances beyond the control of the employees concerned, extra compensation shall be paid and collected on the same basis as though the services had actually been performed during the period between the time the employees were ordered to report for duty and did so report and the time they were notified that their services would not be required, and in any case as though actual performance had continued for at least 1 hour.

(f) *Broken periods.* When overtime services at night or on a Sunday or holiday are rendered in broken periods and less than 2 hours intervene between such broken periods, the intervening waiting time, including any time required for travel between posts of overtime duty but not including any periods for meals or other time not spent at the post of duty, shall be included in the computation of overtime compensation as though the services had been continuous. If 2 hours or more intervene between periods during which services are actually performed, the collector shall determine according to the circumstances of the case whether the service shall be treated as continuous with compensable waiting time or as two or more distinct assignments with compensation to be computed separately for each assignment in accordance with the provisions of paragraph (g) of this section. In no case shall any employee be entitled to receive more than 2½ days' pay by reason of the fact that he is given two or more assignments during one night.

(g) *Rate for night service.* The reasonable rate of extra compensation for authorized overtime services performed by customs employees at night on any weekday is hereby fixed at one-half of the gross daily rate of regular pay of the employee who performs the service for each 2 hours of compensable time, any fraction of 2 hours amounting to at least 1 hour to be counted as 2 hours. The compensable time shall be the period between the beginning of the night and the conclusion of the services if the employee is assigned and reports for duty before the expiration of the first 4 hours of the night; the period between the time the employee is assigned and reports for duty and the conclusion of the services, plus 4 hours, if the time of assignment is after the expiration of the first 4 and before the beginning of the last 2 hours of the night; or 2 hours if the employee is assigned and reports for duty 2 hours or less before the end of the night. However, if an employee performs Sunday or holiday services which are in continuation of an assignment to overtime services begun during the last 2 night hours at the end of the regular workday preceding such Sunday or holiday, the compensable time for the overtime services preceding the Sunday or holiday shall be 2 hours; or if an employee performs overtime services during the night hours at the beginning of the next regular workday following a Sunday or holiday which overtime services are in continuation of an assignment begun on the Sunday or holiday immediately preceding such regular workday, the compensable time for the overtime services following such Sunday or holiday shall be the period between midnight of such Sunday or holiday and the conclusion of the overtime services. The compensable time for overtime service performed by a customs employee assigned to a regular tour of duty covering any part of a night shall be computed in accordance with this night rate as though the beginning of the regular tour of duty of such employee marked the end of a night period and the close of such tour marked the beginning of another night period, but extra compensation is not payable in accordance with this section for overtime services performed by any customs employee on a regular workday during other than the night hours of the port or station. The total extra compensation paid pursuant to this section to a customs employee for overtime services performed during one night shall not exceed 2½ times the gross daily rate of his regular pay.

(h) *Rate for Sunday or holiday service.* The reasonable rate of extra compensation for Sunday or holiday services is hereby fixed at twice the gross daily rate of regular pay of the employee who performs the service for any and all services totaling an aggregate of not more than 8 hours during the 24 hours from midnight to midnight of the Sunday or holiday, including actual waiting time and time required for travel between posts of duty but not including any periods for meals or other time not spent at the post of duty. This rate shall apply regardless of the length of time served within the aggregate of 8 hours, whether it is served continuously or in broken periods, and whether it is served for one or more applicants. Services in excess of an aggregate of 8 hours performed during the 24 hours of a Sunday or holiday shall be compensated on the same basis as overtime services performed at night on a weekday, the time between the completion of the aggregate of 8 hours and midnight being considered as the hours of a night.

(i) *Part-time employees.* The extra compensation for overtime services performed by a permanent part-time employee at night or on a Sunday or holiday shall be computed on the basis of the gross daily rate of regular pay the part-time employee would receive for full-time service in the position held by him. Customs employees who are paid on a per-diem-when-employed basis shall be paid the overtime rate but not the per-diem rate when assigned to perform overtime services on a Sunday or holiday.

(j) *Proration of charges.* If services are performed for two or more applicants during one continuous tour of overtime duty, the charge for the extra compensation earned shall be prorated equitably according to the time attributable to the services performed for each applicant. For the purpose of this paragraph the Government shall be considered the applicant for nonreimbursable overtime services.

(k) *Participation in overtime work.* In general, services for which extra compensation is payable in accordance with this section, or for which reimbursement is required in accordance with § 24.17, shall be performed by employees who are regularly assigned to perform the same class of work during their regular tours of duty, but when the collector or other administrative field officer concerned finds that the needs of the service so require he is hereby authorized to assign any other available and competent employee to perform such services and such employees while so assigned shall be deemed acting inspectors, acting customs warehouse officers, etc., as the case may be.

(Sec. 5, 36 Stat. 901, as amended, secs. 450, 451, 452, 46 Stat. 715, as amended, sec. 6, 49 Stat. 1385, as amended; 19 U.S.C. 261, 267, 1450, 1451, 1452, 46 U.S.C. 382b)

§ 24.17 Other services of officers; reimbursable.

(a) Amounts chargeable to private interests in connection with services rendered by customs officers or employees under one or more of the following circumstances shall be collected from such private interests and deposited by collectors of customs as repayments to the appropriations from which paid.

(1) When a customs officer or employee is assigned on board a vessel or vehicle under authority of section 457, Tariff Act of 1930, to protect the revenue, the owner or master of such vessel or vehicle shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto.

(2) When a customs officer or employee is assigned on board a vessel under authority of section 458, Tariff Act of 1930, to supervise the unlading of such vessel, the master or owner of such vessel shall be charged the full compensation of such officer or employee for every day consumed in unlading after the expiration of 25 days after the date of the vessel's entry.

(3) When a customs officer or employee is assigned under authority of section 304, Tariff Act of 1930, as amended, to supervise the exportation, destruction, or marking to exempt articles from the duty provided for in such

section, the importer of such merchandise shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto.

(4) When a customs officer or employee is assigned pursuant to § 1.2 of this chapter to a customs station or other place which is not a port of entry for service in connection with the entry or clearance of a vessel, the owner, master, or agent of the vessel shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns. When a customs officer or employee is so assigned to render service in connection with the entry or delivery of merchandise only, the private interest shall be charged only for the authorized travel and subsistence expenses incurred by such officer or employee from the time he leaves his official station until he returns thereto except that no collection need be made if the total amount chargeable against one importer for one day amounts to less than 50 cents (see § 1.2 (c) of this chapter). Where the amount chargeable is 50 cents or more, but less than $1, a minimum charge of $1 shall be made.

(5) When a customs officer or employee is assigned under authority of section 447, Tariff Act of 1930, to make entry of a vessel at a place other than a port of entry or to supervise the unlading of cargo, the private interest shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto.

(6) When a customs officer or employee is assigned under authority of section 19 (a) of the Customs Administrative Act of June 25, 1938 (46 U. S. C. 331), to measure or certify the tonnage of a vessel at the request of the owner thereof at a place other than a port of entry or a customs station, such owner shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto.

(7) When a customs officer or employee is assigned on any vessel or vehicle, under authority of section 456, Tariff Act of 1930, while proceeding from one port to another, the master or owner of such vessel or vehicle shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto, or, in lieu of such expenses, the master or owner may furnish such officer or employee the accommodations usually supplied to passengers.

(8) When a customs officer or employee [sss] is assigned under authority of section 562, Tariff Act of 1930, as amended, to supervise the manipulation of merchandise at a place other than a bonded warehouse, the compensation and expenses of such officer or employee shall be reimbursed to the Government by the party in interest.

(9) When a customs officer or employee is assigned to supervise the destruction of merchandise pursuant to section 557 (c), Tariff Act of 1930, as amended, at a place where a customs employee is not regularly assigned, the full compensation and expenses of such officer or employee shall be reimbursed to the Government by the party in interest.

(10) When fur or wool products are labeled under customs supervision in accordance with §§ 11.12 (b) and 11.12a (b) of this chapter, the compensation and expenses of customs officers and employees assigned to supervise the labeling shall be reimbursed to the Government by the party in interest.

(11) When a customs officer or employee is assigned to supervise examination, sampling, weighing, repacking, segregation, or other operation on merchandise in accordance with §§ 8.5(b), 15.2, 15.3(b) and 15.10 of this chapter, the compensation and other expenses of such officer or employee shall be reimbursed to the Government by the party-in-interest except when a warehouse proprietor is liable therefor.

(b) When a customs officer or employee is assigned to render services the nature of which is such that the private interest is required to reimburse the Government for his compensation and on the same assignment performs services for which compensation is not reimbursable, a charge shall be made to the private interest for the full compensation of the customs employee unless the time devoted to each class of service can be clearly segregated.

(c) The charge for any service enumerated in this section for which expenses are required to be reimbursed shall include actual transportation expenses and any authorized per diem expenses of a customs employee whether the services are performed within or without the port limits, except that no charge shall be made for transportation expenses when a customs employee is reporting to, as a first assignment, or leaving from as a last assignment, a place where he is regularly assigned to duty.

(d) The reimbursable compensation charge shall be computed in accordance with § 19.5 (b) of this chapter.

(Secs. 456, 524, 557, 562, 46 Stat. 716, 741, as amended, 744, as amended, 745, as amended, sec. 1, 24 Stat. 79, as amended; 19 U.S.C. 1456, 1524, 1557, 1562, 46 U.S.C. 331)

§ 24.25 Claims for surplus proceeds of sale of unclaimed merchandise.

Claims for the surplus proceeds of the sale of unclaimed merchandise shall be filed with the collector of customs at whose direction the merchandise was sold. Such claims shall be supported by the original bill of lading. If only a part of a shipment is involved, either a photostatic or a certified copy of the original bill of lading may be submitted in lieu of the original bill of lading.

(Secs. 491, 493, 46 Stat. 726, as amended, 727; 19 U.S.C. 1491, 1493)

§ 24.32 Claims; unpaid compensation of deceased employees and death benefits.

(a) A claim made by a designated beneficiary or a surviving spouse for unpaid compensation due an officer or employee at the time of his death shall be executed on standard Form 1153, Claim of Designated Beneficiary and/or Surviving Spouse for Unpaid Compensation of Deceased Civilian Employee. A claim made by anyone other than a designated beneficiary or surviving spouse for unpaid compensation due an officer or employee at the time of his death shall be executed on standard Form 1155, Claim for Unpaid Compensation of Deceased Civilian Employee. The claims shall be forwarded to the customs office where the deceased was employed.

(b) Claims for death benefits, either in the form of an annuity or lump-sum payment of the amount to the credit of the deceased officer or employee in the Retirement and Disability Fund shall be executed on standard Form 100, Application for Death Benefit, and forwarded together with a certified copy of the public record of death directly to the Civil Service Commission, Washington, D.C., 20415.

(Secs. 1, 3, 64 Stat. 395, 396, sec. 11, 41 Stat. 619, as amended; 5 U. S. C. 61f, 61h, 724)

§ 24.34 Vouchers; vendors' bills of sale; invoices.

(a) Vouchers or invoices for transportation and related services which are intended for payment from official funds shall contain the following certification signed by the claimant:

I certify that the above bill is correct and just and that payment has not been received.

Vouchers, vendors' bills of sale, or invoices for purchases or services other than personal do not require the foregoing certification.

(b) Every voucher shall be in the name of the person or persons furnishing the service or supplies, except in the case of a service or supplies paid for in an emergency by a customs officer or employee, in which case the voucher may be in the name of the officer or employee who made the payment.

(c) The signature of a claimant made by a mark shall be attested in each case by a disinterested witness.

(d) The dates appearing on vouchers and on receipts filed in support thereof shall always be the actual dates of the transactions recorded or action taken thereon. As many copies in memorandum form, duly authenticated if desired, may be prepared as administrative or other requirements demand.

(e) When an erasure, interlineation, or change of any kind is made in a voucher after it has been certified by the claimant, such correction or change shall be initialed and dated by the claimant.

(f) (1) Vouchers for passenger transportation furnished customs officers or employees on Government transportation requests, standard Form 1169, and vouchers for transportation of freight and express furnished on Government bills of lading, standard Form 1103,

[sss] A customs officer or employee so assigned is not acting as a customs warehouse officer, since the services have no connection with a customs bonded warehouse.

issued by customs officers or employees

the person to whom the refund is due,

tobacco taxes, as defined in section

than that actually imported and the fact

issued by customs officers or employees shall be rendered on Public Voucher for Transportation Charges, standard Form 1171 or 1113, respectively, to the customs office to be billed as indicated on the transportation request or bill of lading.

(2) Charges for freight or express must not be included on the same vouchers with charges for passenger transportation. The words "Passenger," "Freight," or "Express," as the case may be, should be printed or otherwise placed by the carrier immediately above the title of the voucher form. Original Government bills of lading, standard Form 1103, or transportation requests, standard Form 1169, or certificates in lieu thereof, standard Forms 1108 or 1172, respectively, shall be attached to these vouchers.

(Sec. 22, 28 Stat. 210, as amended; 41 U.S.C. 21)

§ 24.36 Refunds of excessive duties, taxes, etc.[6]

(a) When it is found on liquidation or reliquidation of an entry that a refund of excessive duties or taxes, or both, is due, a notice of refund on customs Form 5269 shall be prepared at the headquarters port in the name of the person to whom the refund is due, as determined by paragraphs (b) and (c) of this section. The use of customs Form 5269 may be eliminated by having the entry number or numbers placed on the refund check unless the payee has requested that the above-mentioned form be furnished. If an authority to mail checks to someone other than the payee, customs Form 4811, is on file with the collector, the address of the payee shall be shown as in care of the address of the authorized person. If a power of attorney is on file with the collector, the address of the payee may be shown as in care of the address of such attorney if requested.

(b) Refunds of excessive duties or taxes shall be certified for payment to the importer of record unless a transferee of the right to withdraw merchandise from bonded warehouse is entitled to receive the refund under section 557 (b), Tariff Act of 1930, as amended, or an owner's declaration has been filed in accordance with section 485 (d), Tariff Act of 1930. The certification of a refund for payment to a nominal consignee may be made prior to the expiration of the 90-day period within which an owner's declaration may be filed as prescribed in section 485 (d) of the tariff act, provided the nominal consignee waives in writing his right to file such declaration. If an owner's declaration has been duly filed, the refund shall be certified for payment to the actual owner who executed the declaration, except that, whether or not an owner's declaration has been filed refunds shall be certified for payment to a transferee provided for in section 557 (b), Tariff Act of 1930, as amended, if the moneys with respect to which the refund was allowed were paid by such transferee.

(c) If the nominal consignee has become bankrupt, refunds of duties or internal revenue taxes on merchandise entered in the name of such nominal consignee for the account of the actual owner shall be withheld from payment pending the receipt of a claim therefor and the establishment of rights thereto, unless the declaration of the actual owner has been filed with the collector under section 485 (d), Tariff Act of 1930.

(d) The authority of collectors of customs to make refunds pursuant to paragraphs (a), (b), and (c) of this section of excessive deposits of alcohol or tobacco taxes, as defined in section 6423(e)(1), Internal Revenue Code of 1954 (26 U.S.C. 6423(e)(1)),[7] is confined to cases of the types which are excepted from the application of section 6423, Internal Revenue Code of 1954 (26 U.S.C. 6423). The excepted types of cases and, therefore, the types in which the collector of customs is authorized to make refunds of such taxes are those in which:

(1) The tax was paid or collected on an article imported for the personal or household use of the importer;

(2) The refund is made pursuant to provisions of laws and regulations for drawback;

(3) The tax was paid or collected on an imported article withdrawn from the market, returned to bond, or lost or destroyed, when any law expressly provides for refund in such case;

(4) The tax was paid or collected on an imported article which has been lost, where a suit or proceeding was instituted before June 15, 1957;

(5) The refund of tax is pursuant to a claim based solely on errors of computation of the quantity of the imported article, or on mathematical errors in computation of the tax due;

(6) The tax was paid or collected on an imported article seized and forfeited, or destroyed, as contraband;

(7) The tax was paid or collected on an imported article refused admission to customs territory and exported or destroyed in accordance with section 558, Tariff Act of 1930, as amended;

(8) The refund of tax is pursuant to a reliquidation of an entry under section 520(c)(1), Tariff Act of 1930, as amended, and does not involve a rate of tax applicable to an imported article; or

(9) The tax was paid or collected on a greater quantity of imported articles than that actually imported and the fact of the deficiency is established to the collector of customs' satisfaction before liquidation of the entry becomes final.

(e) In any instance in which a refund of an alcohol or tobacco tax is not of a type covered by paragraph (d) of this section the following procedure shall apply:

(1) The collector shall issue a notice of refund for duty only and shall place the following statement on the notice of refund issued for duty: "Claim for refund of any overpayment of internal-revenue tax on this entry must be executed and filed with the assistant regional commissioner (alcohol and tobacco tax) of the internal revenue region in which the claimant is located, in accordance with internal revenue regulations (Title 26 of the Code of Federal Regulations)." On request of the claimant, the collector shall issue a certified statement on customs letterhead identifying the entry, showing the amount of internal revenue tax deposited with respect to each entry for which a claim on internal revenue Form 843 is to be made, and showing the date of issuance of the notice of refund of duty.

(2) The claim shall be executed on internal revenue Form 843 (original only) which may be procured from offices of the Internal Revenue Service and shall be filed with the assistant regional commissioner (alcohol and tobacco tax) of the internal revenue region in which the claimant is located. The certified statement shall be attached to and filed in support of such claim which may include refunds under more than one entry but shall be limited to refunds under entries filed in the same customs collection district and the same internal revenue region. The data to be shown on the claim shall be as prescribed in internal revenue regulations, with the exception that any data on the certified statement also required to be shown in the claim need not be restated in the claim.

(3) The date of allowance of refund or credit in respect of such tax for the purposes of section 6407, Internal Revenue Code of 1954 (26 U.S.C. 6407) shall be that date on which a claim is perfected and the refund is authorized for scheduling under the applicable internal revenue regulations.

(72 Stat. 9; 26 U.S.C. 6423)

---

[6] "(a) The Secretary of the Treasury is hereby authorized to refund duties or other receipts in the following cases:

"(1) *Excess deposits.* Whenever it is ascertained on liquidation or reliquidation of an entry that more money has been deposited or paid as duties than was required by law to be so deposited or paid;

"(2) *Fees, charges, and exactions.* Whenever it is determined in the manner required by law that any fees, charges, or exactions, other than duties and taxes, have been erroneously or excessively collected; and

"(3) *Fines, penalties, and forfeitures.* Whenever money has been deposited in the Treasury on account of a fine, penalty, or forfeiture which did not accrue, or which is finally determined to have accrued in an amount less than that so deposited, or which is mitigated to an amount less than that so deposited or is remitted." (Tariff Act of 1930, sec. 520(a), as amended; 19 U.S.C. 1520(a)).

The refunding of moneys in compliance with any ruling or decision of the Customs Court is the function of the Secretary of the Treasury, and there is no foundation for a suit against the collector of customs to restrain him from disposal of such moneys.

Payment of costs and interest upon refunds in customs cases is not allowed.

[7] "(e) *Meaning of terms.* For purposes of this section—

(1) *Alcohol or Tobacco Tax.* The term 'alcohol or tobacco tax' means—

(A) Any tax imposed by chapter 51 (other than part II of subchapter A, relating to occupational taxes) or by chapter 52 or by any corresponding provision of prior internal revenue laws, and

(B) In the case of any commodity of a kind subject to a tax described in subparagraph (A), any tax equal to any such tax, any additional tax, or any floor stocks tax." (26 U.S.C. 6423(e)(1)).

§ 24.70 Claims; deceased or incompetent public creditors.

(a) Claims for amounts due individual deceased public creditors of the United States (except civilian officers and employees subject to the provisions of section 61f–61k, title 5, United States Code), should be made on standard Form No. 1055—Revised. Such claims include claims for payments due deceased contractors for articles furnished or services performed, and claims for payments due deceased importers or owners of merchandise on account of refunds of excessive duties, or taxes, or for payment of drawback, etc. Claims for payment of Government checks drawn on the Treasurer of the United States or other authorized Government depositary to the order of such public creditors, which cannot be paid because of the death of the payee, should be stated on standard Form 1055—Revised. Information should be furnished regarding the disposition of these checks in case they are not in possession of the claimant, otherwise they should accompany the claim.

(b) No form is prescribed for use of a guardian or committee of an estate of an incompetent in making claim for sums due from the United States. Such guardian or committee may submit in letter form, over his address and signature, an application for amounts due an estate of an incompetent, setting forth the incompetent's connection with the Bureau of Customs. This application should be supported by a short certificate of the court showing the appointment and qualification of the claimant as guardian or committee. In case the total amount due the estate of the incompetent is small, and no guardian or committee of the estate has been or will be appointed, the application may be submitted by the person or persons having care or custody of the incompetent, or by close relatives who will hold any amount found due for the use and benefit of the incompetent. Applications for recurring payments need not be accompanied by an additional certificate of the court, but should be supported by a statement that the appointment is still in full force and effect. All Government checks drawn on the Treasurer of the United States or other authorized Government depositary to the order of individuals which cannot be paid because of incompetency of the payee should accompany the claim, otherwise an explanation should be given as to the disposition of the check.

(c) Claims for payments due deceased or incompetent contractors should be submitted to the customs field officer at whose order the articles were furnished or services performed. Claims for refunds of excessive duties, or taxes, or for payment of drawback, etc., due deceased or incompetent public creditors should be submitted to the appropriate collector of customs. The customs field officer may grant necessary assistance to claimants to insure proper execution of standard Form 1055—Revised in the case of deceased public creditors, and in the case of incompetent public creditors to insure submission of the application in proper form. The customs field officer should forward the claim, with his recommendation in duplicate, together with the originals or certified copies of all documents and papers necessary to establish the claimant's right to the moneys due, to the Bureau of Customs, Attention: Fiscal Section, for administrative examination and transmission to the General Accounting Office for direct settlement.

§ 24.71 Claims for personal injury or damages to or loss of privately owned property.

Procedures for the settlement of claims arising from actions of Treasury Department employees are published in 31 CFR Part 3.

§ 24.72 Claims; set-off.

When an importer of record has a judgment or other claim allowed by legal authority against the United States, and he is indebted to the United States either as principal or surety, the collector shall not certify for payment so much of such judgment or claim as will equal the amount of the debt due the Government and shall report the facts to the Bureau for instructions.

§ 24.73 Miscellaneous claims.

Every claim of whatever nature arising under the customs laws which is not otherwise provided for shall be forwarded directly to the Bureau, together with all supporting documents and information available.

PART 25—CUSTOMS BONDS

Sec.

25.1 Classes of bonds.
25.3 Bonds approved by the Bureau; form and execution.
25.4 Bonds approved by collectors; form and execution.
25.5 General instructions.
25.6 Seal.
25.7 Partnerships as principals.
25.8 Corporations as principals.
25.9 Individual sureties.
25.10 Delinquent sureties.
25.11 Partners as sureties.
25.12 Corporate sureties.
25.13 Same party as principal and surety; attorney.
25.14 Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.
25.15 Export bonds; cancellation.
25.16 Bonds and stipulations for production of missing documents; card memorandum; time for production of documents.
25.17 Nonproduction of documents; failure to redeliver packages; sums to be collected.
25.18 Extensions of periods for compliance with requirements of bonds and stipulations.
25.19 Cancellation of erroneous charges.

AUTHORITY: §§ 25.1 to 25.19 issued under R.S. 161, 251, secs. 623, 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1623, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 25.1 Classes of bonds.

All bonds required to be given under the customs statutes or regulations shall be known as customs bonds and shall consist of two classes. Those approved by the Bureau and those approved by collectors of customs.

§ 25.3 Bonds approved by the Bureau; form and execution.

(a) The following bonds, after execution by the principals and sureties shall be forwarded to the Bureau for approval:

(1) Proprietor's manufacturing warehouse bond, class 6, customs Form 3583, in an amount to be recommended by the collector, but not less than $5,000 on each building or area and not more than $50,000 on all buildings or areas, unless the Bureau believes additional security

---

[1] "(a) In any case in which bond or other security is not specifically required by law, the Secretary of the Treasury may by regulation or specific instruction require, or authorize collectors of customs to require, such bonds or other security as he, or they, may deem necessary for the protection of the revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary of the Treasury or the Customs Service may be authorized to enforce.

"(b) Whenever a bond is required or authorized by a law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, the Secretary of the Treasury may—

"(1) Except as otherwise specifically provided by law, prescribe the conditions and form of such bond, and fix the amount of penalty thereof, whether for the payment of liquidated damages or of a penal sum: *Provided,* That when a consolidated bond authorized by paragraph 4 of this subsection is taken, the Secretary of the Treasury may fix the penalty of such bond without regard to any other provision of law, regulation, or instruction.

"(2) Provide for the approval of the sureties on such bond, without regard to any general provision of law.

"(3) Authorize the execution of a term bond the conditions of which shall extend to and cover similar cases of importations over such period of time, not to exceed one year, or such longer period as he may fix when in his opinion special circumstances existing in a particular instance require such longer period.

"(4) Authorize, to the extent that he may deem necessary, the taking of a consolidated bond (single entry or term) in lieu of separate bonds to assure compliance with two or more provisions of law, regulations, or instructions which the Secretary of the Treasury or the Customs Service is authorized to enforce. A consolidated bond taken pursuant to the authority contained in this subsection shall have the same force and effect in respect of every provision of law, regulation, or instruction for the purposes for which it is required as though separate bonds had been taken to assure compliance with each such provision.

"(c) The Secretary of the Treasury may authorize the cancellation of any bond provided for in this section, or of any charge that may have been made against such bond, in the event of a breach of any condition of the bond, upon the payment of such lesser amount or penalty or upon such other terms and conditions as he may deem sufficient.

"(d) No condition in any bond taken to assure compliance with any law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce shall be held invalid on the ground that such condition is not specified in the law, regulation, or instruction authorizing or requiring the taking of such bonds. • • •." (Tariff Act of 1930, sec. 623, as amended; 19 U. S. C. 1623)

necessary. Buildings connected by loading platforms or sheds shall be considered as separate buildings. It shall be prepared in duplicate and, after execution by the principal and surety, delivered to the collector of customs to be forwarded to the Bureau with his recommendation, together with all reports, documents, and drawings filed in connection therewith.

(2) Cartage contract bond, customs Form 3083, in an amount to be recommended in each case by the collector. The cartage contract and bond shall be executed in quadruplicate.

(3) Blanket smelting and refining bond in the form prescribed by T.D. 50267, as amended by T.D. 52403, in an amount to be recommended by the collector and fixed by the Bureau.

(b) A blanket term bond shall be accompanied by a sufficient number of copies for transmittal, through the Bureau, to each port at which the principal seeks to conduct business.

§ 25.4 Bonds approved by collectors; form and execution.

(a) The following bonds shall be approved by the collector and remain on file in his office, except customs Form 4615, which shall be transmitted to the United States attorney:

(1) Carrier's bond, custom Form 3587, in an amount to be determined by the collector.

(2) Proprietor's warehouse bond, customs Form 3581, in the amount of $5,000 on each building or area covered, but not to exceed $50,000 on all buildings or areas unless the collector believes additional security necessary. Buildings connected by loading platforms or sheds shall be considered as separate buildings. All reports, documents, and drawings submitted in connection with the bonding of the warehouse shall be filed with the bond.

(3) Bond of customs cartman or lighterman, customs Form 3855, in such amount as the collector deems, necessary, but not less than $5,000, and not more than $50,000, unless the collector deems the latter amount insufficient and reports the matter to the Bureau for action, in which case the bond shall be in the amount specified by the Bureau.

(4) Bond of claimant of seized goods for costs of judicial condemnation, customs Form 4615, in the amount of $250.

(5) Bond to produce manifest and shipper's export declarations for goods exported to Canada, customs Form 7303, in the amount of $1,000.

(6) Term bond to produce manifest and shipper's export declarations for goods exported to Canada, in such amount as the collector may deem necessary.

(7) Special single entry carpet wool and camel's hair bond, customs Form 7547, in an amount equal to the value of the wool or hair involved plus double the estimated duty, as determined at the time of entry.

(8) Special term carpet wool and camel's hair bond, customs Form 7549, in the amount of $10,000, or such larger amount as the collector may deem necessary.

(9) Immediate delivery and consumption entry bond (single entry), customs Form 7551, in an amount equal to the value of the articles, as set forth in the entry, plus the estimated duty [2] (including any taxes required by law to be treated as duties) and the estimated amount of any other taxes imposed upon or by reason of importation, as determined at the time of entry except:

(i) When the merchandise involved will remain in customs custody until (*a*) examination has been completed, (*b*) it is found to be truly and correctly invoiced, and (*c*) it is determined that its release is not precluded by law or regulation and it is entitled to admission into the commerce of the United States, the bond shall be in an amount equal to the aggregate sum of double the estimated amount of ordinary customs duty on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the collector.

(ii) When the merchandise appears to the satisfaction of the collector to be unconditionally free of duty and not prohibited from admission into the commerce of the United States, the amount of the bond may be in such lesser amount (disregarding the value of the articles) as, in the opinion of the collector, will be sufficient to accomplish the purpose for which the bond is given, but in no case less than $100.

(iii) When the bond relates to an application for immediate delivery prior to entry, the amount shall be fixed as above set forth on the basis of the information shown in the application.

(10) Immediate delivery and consumption entry bond (term), customs Form 7553, in the amount of $10,000, or such larger amount as the collector may deem necessary. This bond shall be taken to cover only entries to be made at a single port and shall not be modified to cover more than one port. The rules prescribed in subparagraph (9) of this paragraph for determining the amount of the single immediate delivery and consumption entry bond shall be applied in making charges against immediate delivery and consumption entry term bonds.

(11) Warehouse entry bond, customs, Form 7555, in an amount equal to the aggregate sum of double the estimated amount of ordinary customs duty [2] on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the collector of customs.

(12) Single entry bond for exportation, or for transportation, or for transportation and exportation, customs Form 7557, in an amount equal to double the estimated duty.

(13) Term bond for exportation, or for transportation, or for transportation and exportation, customs Form 7559, in the amount of $10,000, or such larger amount as the collector may deem necessary to afford ample security to the revenue.

(14) Bond for articles entered or withdrawn from warehouse conditionally free of duty, customs Form 7561, in an amount equal to the aggregate sum of double the estimated amount of ordinary customs duty [2] on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the collector of customs.

(15) Bond for temporary importations, customs Form 7563, in an amount equal to double the estimated duties, as determined at the time of entry.

(16) Term bond for temporary importations, customs Form 7563–A, in such amount as the collector may deem necessary, but in no case less than $1,000, unless the bond covers entries at 2 or more ports in which case the amount shall not be less than $10,000.

(17) Bond for articles for exhibition, customs Form 7565, in an amount equal to one and one-quarter times the estimated duties as determined at the time of entry.

(18) Single entry vessel, vehicle, or aircraft bond, customs Form 7567, in such amount as the collector may deem necessary, but in no case less than $1,000.

(19) Vessel, vehicle, or aircraft term bond, customs Form 7569, in the amount of $10,000, or such larger amount as the collector may deem necessary.

(20) Blanket vessel, vehicle, or aircraft term bond, customs Form 7569, in the amount of $10,000, or such larger amount as may be fixed by the collector of customs at the port where the bond is filed. A carrier desiring to execute such a bond shall file an application for permission to execute the bond with the collector of customs at any headquarters port. The bond shall be accompanied by a copy for each port named therein.

(21) Bond on entry for or withdrawal from manufacturing warehouse (single entry), customs Form 7571, in an amount equal to the aggregate sum of double the estimated amount of ordinary customs duty on the merchandise, as determined at the time of entry (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the collector of customs.

(22) Single entry bond to produce bill of lading, customs Form 7581, in an amount equal to one and one-half times the invoice value.

(23) Antidumping bond, customs Form 7591, in an amount equal to the estimated value of the merchandise.

(24) Landing bond, customs Form 7593, to land spirits, wines, or other alcoholic liquors in foreign ports, in an amount equal to double the estimated duty.

(25) General term bond for the entry of merchandise, customs Form 7595, in the amount of $100,000, or such larger amount as may be fixed by the collector.

[2] When the bond is to cover merchandise granted a conditional right of entry at a reduced rate of duty, the amount of the bond shall be fixed on the basis of the maximum rate of duty prescribed by the law.

[2] When the bond is to cover merchandise granted a conditional right of entry at a reduced rate of duty, the amount of the bond shall be fixed on the basis of the maximum rate of duty prescribed by the law.

A principal desiring to execute this form of bond shall file with a collector at any headquarters port to be named in the bond an application for permission to file the bond. The application shall show the ports at which it is intended to file entries; the general character of the merchandise to be entered; and the total amount of ordinary customs duties (including any taxes required by law to be treated as duties) accruing on all merchandise imported by the principal during the calendar year preceding the date of the application, plus the estimated amount of any other tax or taxes on the merchandise collectible by the collector of customs. Such total amount of duties and taxes shall be that which would have been required to be deposited had the merchandise been entered for consumption, even though some of or all the merchandise may have been entered under bond. If no imports were made during the calendar year prior to the application, a statement of the duties and taxes it is estimated will accrue on all importations during the current year shall be submitted.

(26) Single entry bond, customs Form 7597, in an amount deemed by the collector to be sufficient to secure the payment of overtime services requested by or on behalf of parties in interest.

(27) Term bond, customs Form 7599, in an amount deemed by the collector to be sufficient to secure the payment of overtime services requested by or on behalf of parties in interest.

(28) Bond for conditionally-free withdrawal of distilled spirits (including alcohol), wines, or beer for supplies of fishing vessels, customs Form 7603, in an amount equal to the duties and taxes that would have been assessed had the supplies been regularly entered, or withdrawn, for consumption. When the form is used as a term bond the bond shall be fixed in such larger amount as the collector may deem necessary.

(29) Special bond, taken under the provisions of section 33(f), Tariff Act of 1930, in the form prescribed in T.D. 45474. This bond shall be in an amount equal to the domestic value of the merchandise.

(30) Special bond in the form prescribed in T.D. 45474 for clearance of vessel penalized for carrying smoking opium or other narcotics under the provisions of section 584, Tariff Act of 1930, as amended. This bond shall be in an amount satisfactory to the collector to guarantee the payment of any fine imposed against the owner or master of the vessel.

(31) Special bond in the form prescribed in T.D. 45474 for exportation of convict-made goods, in an amount equal to the domestic value of the merchandise.

(32) Special bond for observance of neutrality in the form prescribed in T.D. 45474, in an amount equal to double the value of the vessel and cargo on board, including her armament.

(33) Superseding bond of the actual owner whose declaration has been filed pursuant to section 485(d), Tariff Act of 1930, to pay increased and additional duties imposed upon or by reason of importation, to redeliver merchandise for marking and other purposes, and to perform all required acts with respect to merchandise not entitled to admission into the commerce of the United States, customs Form 7601, in an amount equal to the amount of the single-entry bond or the bond charge which it supersedes.

(34) Bond for the control of certain instruments of international traffic, customs Form 7587, specified in § 10.41a of this chapter in the amount of $10,000, or such larger amounts as the collector may deem necessary to afford ample security to the revenue.

(35) Consolidated aircraft bond, customs Form 7605, may be filed with any collector of customs at the option of the carrier in the amount of $100,000, or such larger amount as may be fixed by the collector. Such consolidated bond will not authorize an airline to act as a carrier for the transportation of bonded merchandise unless and until the airline filing the bond is qualified as a carrier for such transportation. If the airline desires to qualify as a carrier for the transportation of bonded merchandise and has not previously so qualified, it shall file an application with the collector requesting permission to so act accompanied by evidence that it is authorized to operate and intends to operate as a common carrier or contract carrier. The application for designation as a carrier for the transportation of bonded merchandise shall be accompanied by the fee prescribed in § 24.12 of the regulations of this chapter. When a carrier has filed a bond on customs Form 7605 and this bond has been approved, it may obtain discontinuance of its bond on customs Form 3587 by request to the collector at the port where that bond was approved.

Customs Form 7605 No. ------
Treasury Department
1961

BUREAU OF CUSTOMS

AIR CARRIER BLANKET BOND

Know all men by these presents that[1]

---
of ---, as principal, and ---, of ---, and ---, of ---, as sureties, are held and firmly bound unto the United States of America in the sum of --- dollars ($---), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this --- day of ---, 19--.

Whereas, at ports or places in the United States, its territories or possessions, or places where customs preclearance procedures have been established outside the United States, the above-bounden principal expects to engage in activities covered by the following bonds of the Bureau of Customs: Carrier's Bond (customs Form 3587); Vessel, Vehicle, or Aircraft Term Bond (customs Form 7569); Bond for the Control of Certain Instruments of International Traffic (customs Form 7587); and General Term Bond for Entry of Merchandise (customs Form 7595); and

Whereas, the above-bounden principal and sureties intend to be bound to the same extent as if they had executed each of the above-mentioned bonds;

Now, therefore, the condition of this obligation is such, that—

If all the conditions and obligations of all the above-mentioned bonds shall be complied with in connection with the above-mentioned activities of the above-bounden principal;

Then this obligation to be void; otherwise to remain in full force and effect.

This bond shall remain in full force and effect for one year commencing ---, 19--, and in the same amount for each and every succeeding annual period thereafter or until terminated. It shall be deemed to constitute a separate bond for each annual period and shall be in a separate amount of $--- for liabilities accuring in each annual period.

[1] If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

Signed, sealed, and delivered in the presence of—

--- (Name and address)

--- --- [SEAL]
(Name and address) (Principal)

--- (Name and address)

--- --- [SEAL]
(Name and address) (Surety)

--- (Name and address)

--- --- [SEAL]
(Name and address) (Surety)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, ---, certify that I am the[1] --- of the corporation named as principal in the within bond; that ---, who signed the said bond on behalf of the principal, was then --- of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

--- [CORPORATE SEAL]

(To be used when no power of attorney has been filed with the collector of customs.)

[1] May be executed by the secretary, assistant secretary, or other officer of the corporation.

(b) The amount of any customs bond approved by the collector shall not be less than $100, except when the law or regulation expressly provides that a lesser amount may be taken. Fractional parts of a dollar shall be disregarded in computing the amount, which shall be stated always as the next higher dollar. The amount of the bond shall be stated both in words and figures. Abbreviations shall not be used, except in dates, descriptions of merchandise, and the marks and numbers on packages. Lines shall be drawn through all spaces not filled in.

(c) If a situation develops where the approved form of a bond is deemed to be inapplicable, the collector may draft a form which he believes will be sufficient, but before execution of the bond the case shall be submitted to the Bureau for its consideration and approval of the proposed form.

(R.S. 4197, as amended; 46 U.S.C. 91)

§ 25.5 General instructions.

(a) The names of the principal and sureties and their respective places of

residence shall appear in full in the body of the bond. The signature of each party to a bond executed by a non-corporate principal or surety shall be witnessed by two persons, who shall sign their names as witnesses, followed by their addresses. No witnesses are required where bonds are executed by properly authorized officers or agents of a corporate principal or a corporate surety. If the bond is executed by an authorized officer of a corporation, the officer's signature shall be properly attested under the corporate seal.

(b) When two persons signing as witnesses act for both principal and surety, they shall so indicate by stating "as to both," or a similar term.

(c) Each bond shall bear the date of the day it was actually executed. The termination date of every term bond shall be the last day of the period and not the first day of a succeeding period; for example, January 1, 1940, to and including December 31, 1940, and not January 1, 1940, to January 1, 1941.

(d) A bond in which erasures, interlineations, or alterations occur shall have placed upon it a statement by an agent of the surety company or by the personal sureties that such erasures, interlineations, or alterations were made prior to this signing of the bond. If such alterations or erasures were made after the bond was signed, the consent of all the parties thereto shall be written in the bond.

§ 25.6 Seal.

(a) The seal on a bond approved by the Secretary of the Treasury or the Bureau shall be affixed adjoining the signatures of principals and sureties, if individuals, and the corporate seal shall be affixed adjoining the signatures of persons signing on behalf of the corporation.

(b) Bonds approved by collectors of customs shall be sealed in accordance with the law of the state in which executed, and when the charter or governing statute of a corporation requires its acts to be evidenced by its corporate seal, such seal is required.

§ 25.7 Partnerships as principals.

(a) Partnership bonds shall be executed in the firm name, with the name of the member or attorney of the firm executing it appearing immediately below the firm signature.[3]

(b) Unless written notice of the full names of all partners in the firm have been previously filed with the collector, the names of all persons composing the partnership shall appear in the body of the bond; for example, "A, B, and C, composing the firm of A, B, and Co."

§ 25.8 Corporations as principles.

(a) When a corporation is the principal, its legal designation and the address of its principal place of business shall be inserted in the body of the bond. The bond shall be signed by an authorized officer or attorney of such corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in § 25.6 (b). When the bond is to be approved by the Secretary of the Treasury or the Bureau, the official character and authority of the person or persons executing the bond for the principal may be certified by the secretary, assistant secretary, or other officer of the corporation. Such certification shall be made by executing the certificate as to corporate principal appearing in the bond. In lieu of such certificate, there may be attached to the bond so much of the records of the corporation as will show the official character and authority of the officer signing, such evidence to consist of:

(1) A certificate from the proper public officer showing the legal existence of the corporation.

(2) A copy of the bylaws, or so much thereof as authorizes the execution of such bonds, certified by the secretary of the corporation and authenticated by its corporate seal.

(3) A copy of the document authorizing such officer to sign such bonds, certified by the secretary of the corporation under the corporate seal, or a power of attorney executed in accordance with § 8.19 of this chapter containing such authority.

(b) When the bond is approved by the collector, the evidence prescribed in paragraph (a) of this section shall be filed with such officer. The collector may waive the production of evidence of incorporation when such fact is a matter of common knowledge and he shall so certify.

(c) When an attorney in fact executes a bond on behalf of a corporation and the bond is to be approved by the Secretary of the Treasury or the Bureau, there shall be attached a power of attorney executed under the corporate seal by an officer of the corporation whose authority to execute such power shall be shown as prescribed in paragraph (a) of this section. If the bond is to be approved by the collector, the power of attorney shall be filed with him on the prescribed form.

(d) The name of a corporation executing a customs bond may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

§ 25.9 Individual sureties.

(a) If individuals sign as sureties, there shall be not less than two, except that, in the case of bonds, approved by the collector, one surety may be accepted if the collector is satisfied that such surety is sufficient for the protection of the Government. Every surety on a customs bond must be both a resident and a citizen of the United States. Before being accepted as surety, he shall take oath on customs Form 3579, setting forth the amount of his assets over and above all his debts and liabilities and such exemptions as may be allowed by law, the general description and the location of one or more pieces of real estate owned by him within the limits of the customs district and the value thereof over and above all encumbrances, and he shall produce such evidence of solvency and financial responsibility as the collector may require.

(b) Each individual surety must have unencumbered property liable to execution, the current market value of which must be equal to the penalty of any bond executed by him. If a single surety is accepted, he shall qualify in an amount equal to twice the penalty of the bond. The property must be located within the limits of the customs district in which the contract of suretyship is to be performed.

(c) An individual surety shall not be accepted on a bond until he has satisfied the collector as to his financial responsibility. The collector may refer the matter to the principal officer of the Customs Agency Service in his district for immediate investigation to verify the financial responsibility of the surety.

(d) In order to follow the continued solvency and sufficiency of individual sureties, the collector shall require a new oath and determine the sufficiency of each such surety as prescribed in paragraphs (a) and (c) of this section at least once every 6 months, and oftener if he deems it advisable.

(e) A married woman shall not be accepted as surety.

(f) Any individual other than a married woman may grant a power of attorney to sign as surety on customs bonds. If limited to bonds of one or several importers, the importers shall be named in the power.

§ 25.10 Delinquent sureties.

(a) No person shall be accepted as surety on any customs bond while he is in default as principal on any other customs bond.

(b) A surety on a customs bond which is in default may be accepted as surety on other customs bonds only to the extent that his assets are unencumbered by such default.

§ 25.11 Partners as sureties.

A person may act as surety for a business partner when such person is acting with respect to his separate property and in his individual capacity, but a member of a partnership shall not be accepted as surety on a bond executed by the firm as principal.

§ 25.12 Corporate sureties.

(a) A list of corporations authorized to act as sureties on bonds, with the amount in which each may be accepted, will be furnished annually to all collectors of customs by the Secretary of the Treasury. No corporation shall be accepted as a surety on a bond unless named in the current list and no bond shall be for a greater amount than the respective limit stated in such list, unless the excess is protected as prescribed in 31 CFR 223.12.

---

[3] "When any bond is required by law or regulation to be executed by any partnership for any purpose connected with the transaction of business at any customhouse, the execution of such bond by any member of such partnership shall bind the other partners in like manner and to the same extent as if such other partners had personally joined in the execution, and an action or suit may be instituted on such bond against all partners as if all had executed the same." (Tariff Act of 1930, sec. 495; 19 U. S. C. 1495)

(b) Two or more companies may be accepted as sureties on any obligation the amount of which does not exceed the limitations of their aggregate qualifying power as fixed and determined by the Secretary of the Treasury. In such cases each company shall limit its liability, in terms, upon the face of the bond to a definite specified amount, using customs Form 3903 for that purpose, such amount to be in all cases within the limitation prescribed by the Secretary, unless such excess is protected as prescribed in 31 CFR 223.12.

(c) When a bond is executed by an authorized and approved corporate surety through its agent or attorney, a power of attorney on Treasury Form 272, showing the authority of such person to act for the surety company, shall be filed in the office of the collector approving such bond or shall be filed in the Treasury Department when the bond is to be approved by the Secretary of the Treasury or the Bureau.

(d) When a bond is executed in a customs district other than the one in which it is to be filed, the bond may be approved as to surety by the collector of customs in the district in which it was executed if evidence of the authority of each officer or agent executing the bond on behalf of the surety is on file in his office. If the bond is not to be approved by the collector in whose district it is executed, the authority of the person or persons executing the bond on behalf of the company shall be completed, as provided for in paragraph (c) of this section, and attached to the bond unless such evidence has been submitted to the collector at the port where the bond is to be approved and filed.

§ 25.13 Same party as principal and surety; attorney.

The same person, partnership, or corporation cannot be both principal and surety on a bond, but a person may act as attorney in fact for both principal and surety. A person acting as attorney in fact for a principal may be accepted as surety on the same bond and, when acting as attorney for the surety, may be the principal on such bond.

§ 25.14 Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.

In lieu of sureties on any bond required or authorized by any law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, collectors of customs are authorized to accept United States money, United States bonds, United States certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the amount of the bond.[4] At the time of the deposit of any obligation of the United States, other than United States money, with the collector, the obligor shall deliver to such collector a duly executed power of attorney and agreement in favor of the collector in a form similar to that prescribed in Department Circular 154, dated February 6, 1935, authorizing such officer, in case of any default in the performance of any of the conditions or stipulations of the bond, to sell such obligation so deposited and to apply the proceeds of such sale, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of such default. If cash is deposited in lieu of sureties on the bond, the collector is authorized to apply such cash, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of a default under the bond.

§ 25.15 Export bonds; cancellation.

(a) A bond to assure the exportation[5] of merchandise may be canceled upon the specification of such merchandise on the outward manifest or outward bill of lading, the inspector's certificate of lading, the record of clearance of the vessel or of the departure of the vehicle, and the production of a foreign landing certificate if such certificate is required by the collector; or, if exportation or destruction is not timely in the case of articles entered under schedule 8, part 5C, Tariff Schedules of the United States, upon the payment of liquidated damages in accordance with the provisions of § 10.39 of this chapter. The requirements of the vessel, vehicle, or aircraft bond, customs Form 7567 or 7569, may be considered as having been complied with upon the production of such of the abovementioned documents as may be applicable thereto; but to establish the exportation of narcotic drugs or any equipment, stores (except such articles as are placed on board vessels or aircraft under the provisions of section 309 or 317, Tariff Act of 1930, as amended), or machinery for vessels, a landing certificate shall be required in every case.

(b) This landing certificate shall be produced within 6 months from the date of exportation and shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that such country has no customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of landing.

(c) Except as provided for in § 4.88 of this chapter, in cases where landing certificates are required and they cannot be produced, an application for waiver thereof may be made to the Bureau through the collector, accompanied by such proofs of exportation and landing abroad as may be available.

(d) In the case of articles for which the ordinary customs duty estimated at the time of entry did not exceed $10 and which are exported within the period of the bond (including any lawful extension) but without customs supervision, the bond may be canceled upon production of evidence of a bona fide exportation satisfactory to the collector.

(e) If any customs bond, except one given only for the production of free-entry or reduced-duty documents, is unsatisfied upon the expiration of 60 days after a liability has accrued thereunder, the matter shall be reported to the United States attorney for prosecution unless measures have been taken to file an application for relief or to effect a satisfactory settlement.

§ 25.16 Bonds and stipulations for production of missing documents; card memorandum; time for production of documents.

(a) When entry is made prior to the production of a required document, whether the importer gives bond on customs Form 7551 or 7553, or other appropriate form, or stipulates to produce such documents, a card memorandum on customs Form 5101 shall be prepared by the importer and presented with the entry.

(b) When a charge for the production of a missing document is made against a term bond, the charge shall be in the amount of the single entry bond that would have been taken had the transaction been covered by a single entry bond.

(c) Except when another period is fixed by law or the regulations in this chapter any document for the production of which a bond or stipulation is given shall be delivered to the collector of customs within 6 months from the date of the transaction in connection with which the bond or stipulation was given, or within any extension of such time which may be granted pursuant to § 25.18 (a). If the period ends on a Saturday, Sunday, or holiday, delivery on the next business day shall be accepted as timely.

§ 25.17 Nonproduction of documents; failure to redeliver packages; sums to be collected.

(a) Collectors of customs are hereby authorized to treat any bond charge for the production of a missing document as satisfied upon payment by the principal or surety of the sum of $25 as liquidated damages for each missing declaration of the consignee or other document, except shippers' export declarations and special customs and commercial invoices not produced within the time prescribed by law or regulations or any lawful extension of such time.

(b) When a required special customs or commercial invoice is not produced on the date of entry or within 6 months thereafter, the bond charge for the production thereof may be canceled upon the payment of $25 as liquidated damages, provided the person who made the entry submits an application for relief from the full amount of the charge, explaining in detail why the special customs or commercial invoice could not be produced within the prescribed period, and

---

[4] "The Secretary of the Treasury is authorized to permit the deposit of money or obligations of the United States, in such amount and upon such conditions as he may by regulation prescribe, in lieu of sureties on any bond required or authorized by a law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce." (Tariff Act of 1930, sec. 623 (e), as amended; 19 U. S. C. 1623 (e))

[5] An exportation is a severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country. The shipment of merchandise abroad with the intention of returning it to the United States with a design to circumvent provisions of restriction or limitation in the tariff laws or to secure a benefit accruing to imported merchandise is not an exportation. Merchandise of foreign origin returned from abroad under these circumstances is dutiable according to its nature, weight, and value at the time of its original arrival in this country.

the collector of customs is satisfied by such application or otherwise that the failure to produce the invoice within the prescribed period was due to causes wholly beyond the control of the person making the entry and not to any purpose of the foreign seller or shipper to withhold information required by law, regulation, or special instruction to be shown on the invoice.

(c) [Reserved]

(d) For failure to return to the collector on demand merchandise subject to return to customs custody, an amount equal to the value as set forth in the entry of the merchandise not returned plus the estimated duties and taxes imposed upon or by reason of importation, if any, on such merchandise as determined at the time of entry shall be demanded. When the demand for return to customs custody is made in the case of merchandise entered under schedule 8, part 5C, Tariff Schedules of the United States, liquidated damages in an amount equal to double the estimated duties on the merchandise not returned shall be demanded. When the demand for return to customs custody is made pursuant to the Federal Seed Act and the regulations thereunder, an amount equal to the value of the entire shipment, as set forth in the entry, plus the estimated duties, if any, as determined at the time of entry shall be demanded.

(e) When free entry or the application of a reduced rate of duty is dependent upon the production of a document which the importer fails to produce, or when a conditionally free or reduced-duty provision claimed on entry is held to be inapplicable, the claim for free entry or reduced rate of duty shall be treated as abandoned upon the assessment and payment of duty and the bond given for the production of the free-entry or reduced-duty document shall be cancelled without the collection of liquidated damages.

(f) When a customs requirement supported by a bond is waived by the Bureau, the waiver may be unconditional, in which case the importer is relieved from the payment of liquidated damages, or it may be conditioned upon prior settlement of the bond obligation by payment of such liquidated damages, or upon such other terms and conditions, as the Bureau may deem sufficient. When such a requirement is waived by the collector of customs pursuant to authority conferred upon him in these regulations, the waiver shall be unconditional.

(g) Except as otherwise provided for by this chapter, collectors of customs may cancel liquidated damages under $200, assessed under the terms of any bond given pursuant to any provision of the customs regulations, upon the payment of such lesser amount as he may deem appropriate under the law and in view of the circumstances, or without the payment of any amount.

(h) If the interested party is not satisfied with the collector's decision on any application for relief from liquidated damages under a bond given pursuant to a law or regulation administered by the Customs Service, he may file a further application with the collector to be forwarded to the Bureau for reconsideration of the case. A statement to that effect shall be contained in the notification to the applicant of the collector's action.

(Sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1623)

§ 25.18 Extensions of periods for compliance with requirements of bonds and stipulations.

(a) If a document (other than an invoice) referred to in § 25.16(c) is not produced within 6 months from the date of the transaction in connection with which the bond or stipulation was given, the collector, upon written application of the importer, in his discretion, may extend the period for further periods of 6 months each, but in no case to exceed a total of 2 years from the date of such transaction.

(b) In cases where the regulations relating to certain classes of merchandise, such as leather imported to be manufactured into footwear (see § 10.84 (c) of this chapter), prescribe a 3-year period within which proof must be produced of the use or disposition of the merchandise in, or its exportation from, the United States, and such proof is not furnished within the prescribed period, the collector may, upon the written application of the importer, extend the 3-year period for further periods of 1 year each, but not to exceed 5 years from the date of entry.

(c) No application for the extension of the period of any bond or stipulation given to assure the production of a missing document shall be allowed by a collector if such application is received later than 6 months after the expiration of the period of the bond or stipulation, including any prior extension. However, when a bond or stipulation is given for the production of any free-entry or reduced-duty document and a satisfactory document is not produced within the prescribed time but is produced prior to liquidation of the entry or within the period during which a valid reliquidation may be completed, it shall be accepted as satisfying the requirement that it be filed in connection with the entry, and the bond charge for its production shall be canceled.

(d) It is not necessary to secure the assent of the sureties to any extension of the period prescribed in a bond when such extension is authorized by law or these regulations. The assent of the sureties shall be obtained before any other extension of such a period is allowed.

§ 25.19 Cancellation of erroneous charges.

When it is definitely determined that liquidated damages assessed or paid under a bond did not in fact accrue, the charge against the bond shall be canceled by the collector without regard to the amount thereof, the liquidated damages, if paid, shall be refunded, and an appropriate notation shall be made on customs Forms 5211 and 5955, or 5955–A, if the transaction has already been recorded thereon. When the determination of whether or not the charge was erroneously made depends upon a construction of law, the charge shall not be canceled without Bureau approval, unless there is in force a Bureau ruling decisive of the issue. Bureau instructions shall be requested in all doubtful cases.

(Sec. 3, 44 Stat. 1382, secs. 514, 643, 46 Stat. 734, 761; 5 U. S. C. 281b, 19 U. S. C. 1514, 1643)

PART 26—DISCLOSURE OF INFORMATION

Sec.
26.1 Inspection of final opinions, orders and rules.
26.2 Public records.
26.3 Confidential information.
26.4 Confidential treatment of customs records and documents.
26.5 Information for the press and associations.
26.6 Review of data.
26.7 Suspension of disclosure.

AUTHORITY: §§ 26.1 to 26.7 issued under R.S. 161; 5 U.S.C. 22. Additional authority is cited in parentheses following the sections affected.

§ 26.1 Inspection of final opinions, orders and rules.

(a) All final opinions or orders in the adjudication of cases issued by the Secretary of the Treasury, the Commissioner of Customs, or other officials of the Treasury Department or the Bureau of Customs in matters administered by the Bureau of Customs, except those held confidential for good cause and not cited as precedents, are made available to public inspection. For the most part, final opinions or orders in matters administered by the Bureau of Customs are in the form of letters, addressed to customs field officers or to parties in interest, ruling upon questions arising under the customs and navigation laws and other related laws. Requests for inspection of such opinions or orders should be addressed in writing to the Commissioner of Customs, Washington, D.C., 20226. Insofar as practicable copies of such opinions or orders will be furnished unless they are confidential under the standards set forth in §§ 26.2 to 26.7. In cases where an opinion or order contains confidential information but the actual ruling can be separated from the confidential matter, partial copies containing only such parts as can properly be disclosed will be furnished insofar as is practicable without undue interference with the work of the Bureau. Final opinions or orders of exceptional importance or wide public interest are published, either in full or in abstracted form, in the Treasury Decisions.

(b) All rules issued in matters administered by the Bureau of Customs, except to the extent that they involve a function requiring secrecy in the public interest or relate solely to internal management, are made available to public inspection. Most of them are published in the Treasury Decisions and the FEDERAL REGISTER or in circular letters made available to the public. Any rule not so published, unless requiring secrecy in the public interest or relating solely to internal management, may be inspected at the Bureau of Customs, Washington, D. C.

(Sec. 3 (b), 60 Stat. 238; 5 U. S. C. 1002 (b))

§ 26.2 Public records.

(a) In general, the types of official records at the headquarters or field offices of the Customs Service include the following:

(1) Entry records.
(2) Warehouse records.
(3) Appraisement records.
(4) Certificates of weight, measure, and gauge.
(5) Vessel manifests, crew lists, and passenger lists.
(6) Statistical information relative to the volume, source, and destination of commodities in foreign trade.
(7) Bulletin notice of liquidation, which is posted or lodged in the customhouse and is available for public inspection.
(8) Record of entry and clearance of vessels.
(9) Record of vessels of the United States belonging to the merchant marine. This information is published annually in a bound volume entitled "Merchant Vessels of the United States," for sale through the office of the Superintendent of Documents.
(10) Records of documents of vessels of the United States.
(11) Records of bills of sales, conveyances, mortgages, and hypothecations pertaining to vessels of the United States.
(12) Statistical information relative to the merchant marine.

(b) Some of the information contained in the documents mentioned in paragraph (a) of this section is held to be confidential for one or more of the following good causes and in accordance with the standards prescribed in §§ 26.2 to 26.7 and is not available to the public:

(1) It relates to the details of business transactions of private parties, the disclosure of which details would be detrimental to the interests of the parties involved, without furthering the public interest.

(2) It is submitted in reliance upon the long-established assurance that such information will be kept in confidence and used only for official purposes.

(3) Its disclosure would be inimical to the public interest.

(c) Requests for information contained in the public records mentioned in paragraph (a) of this section may be made in accordance with established procedures (see 16 F. R. 6964).

(d) The rules set forth in §§ 26.2 to 26.7 regarding the disclosure of information are found to be in compliance with the provisions of the Administrative Procedure Act (5 U. S. C. 1001–1011) and the standards prescribed in those sections for determining what information is for good cause to be regarded as confidential are applicable to all requests for information or for inspection of final opinions, orders, or official records.

(Sec. 3 (c), 60 Stat. 238; 5 U. S. C. 1002 (c))

§ 26.3 Confidential information.

(a) Except as authorized hereafter in this section, no collector, appraiser, customs agent, or other customs officer or employee shall disclose details of any customs activity for publication, except under special authority from the Bureau.

(b) Collectors and other customs officers shall refrain from disclosing facts concerning seizures, investigations, and other pending cases of public interest until the matter is completed. The collector may give the public information concerning any case involving an offense against the customs and navigation laws after he has completed his investigation and the case has been closed by final customs action, such as settlement of a civil liability or reference of a case to the United States attorney for handling. Field officers shall exercise proper restraint and judgment in disclosing local transactions. Unless specifically authorized so to do, they shall not disclose to any person not immediately concerned the text or substance of any communication from the Bureau or the Treasury involving any matter of policy.

(c) Insofar as administrative matters in Washington are concerned, statements will be issued only through the office of the Secretary or the Assistant Secretary in charge of the Customs Service.

(d) The disclosure of the confidential information contained in customs documents or the disclosure to one importer or exporter of information relative to the business of another importer or exporter acquired by the officer or employee by reason of his official employment shall constitute grounds for dismissal from the Service; and if done for a valuable consideration will subject such person to criminal prosecution.

§ 26.4 Confidential treatment of customs records and documents.

(a) The information contained in invoices, entries, manifests, export declarations, official reports of investigating officers, and other papers or documents filed with customs officers for any official purpose shall be treated as confidential, except for the purpose for which such documents are required to be filed. All officers and employees of the Customs Service are prohibited, unless specially authorized to do so by the Bureau or by the regulations in this part from giving out information contained in such papers and documents except to the importer, exporter (in the case of export documents), or other person directly in interest, or to his authorized agent.

(b) Importers and exporters, or their duly authorized brokers, attorneys, or agents, may be permitted to examine manifests with respect to any consignment of goods in which they have a proper and legal interest as principal or agent, but shall not be permitted to make any general examination of manifests or to make any copies or notations from them except with reference to the particular importation or exportation in which they have a proper and legal interest.

(c) In answer to a legal process or demand from a court issued in behalf of the United States or an officer thereof, customs officers or employees shall produce in court in customs custody, and may testify with respect to, any official customs papers or documents demanded. When any such process or demand is issued in behalf of a party other than the United States, it shall be complied with only to the extent that the party in whose behalf the papers or documents are demanded is permitted under these regulations to inspect such papers or documents at the customhouse.

(d) Except as stated in paragraph (f) of this section, nothing in this part shall preclude customs officers or employees from producing in the United States Customs Court in customs custody any customs papers or documents or from

testifying or otherwise rendering all

testifying or otherwise rendering all proper assistance to the court in proceedings before it when request therefor is made by the court; nor from furnishing to counsel for the United States information in, and permitting him to inspect, customs papers or documents requested by him, nor from testifying on behalf of the United States or otherwise assisting him in the performance of his official duties.

(e) Except as stated in paragraph (c) of this section, copies of customs documents or records desired by or on behalf of parties to a suit, whether in a court of the United States or any other, shall be furnished without prior Departmental approval only to the court on a rule of the court upon the Secretary of the Treasury requesting them, or to a person entitled under paragraph (a) of this section to obtain the information they disclose. Exceptions to this rule shall be made only on the written order of the Secretary, the Under Secretary, an Assistant Secretary, or the Administrative Assistant to the Secretary. When requested, such copies may be authenticated pursuant to the provisions of 28 U. S. C. 1733.

(f) The authority granted in paragraphs (c), (d), and (e) of this section is subject to the restriction that no matters of a confidential nature or the disclosure of which would be prejudicial to the public interest shall be disclosed to any person.

(g) Upon being served with a subpoena or subpoena duces tecum from a court or officer thereof calling for testimony or the production of papers or documents in cases not covered by paragraph (c) or (d) of this section, or in cases where the testimony or documents desired would disclose matters of a confidential nature or the disclosure of which would be prejudicial to the public interest, the matter shall be referred to the Bureau for instructions with a report which shall specifically describe the testimony or documents desired; shall set forth the views of the submitting officer as to whether the giving of the testimony or the furnishing of the documents would disclose confidential information or be inimical to the public interest; and shall state in what particulars, if any, the disclosure of the information and work incidental thereto would interfere with the orderly conduct of customs business in the event instructions are not received prior to the date set for appearance or production of documents, or if the Bureau declines to permit their production or the disclosure of the information contained therein or otherwise within the knowledge of the customs officers or employee whose testimony is requested, the customs officer or employee shall appear in court or before the officer concerned in answer to the subpoena and respectfully decline to produce the documents called for or to testify, except to the extent specifically authorized elsewhere in this section, citing this regulation as authority for his refusal. If the matter has not already been referred to the Bureau for instructions, the customs officer or employee shall advise the court or officer that it will be so referred.

§ 26.5 Information for the press and associations.

Accredited representatives of the press, including newspapers, commercial magazines, trade journals, and similar publications may be permitted to examine vessels' manifests and summary statistical reports of imports and exports and to copy therefrom for publication information and data not of a confidential nature, subject to the following rules:

(a) Of the information and data appearing on outward manifests, only the general character, destination, and quantity (or value) of the commodity, name of vessel, and country of destination may be copied and published. Where the manifests show both quantity and value, either may be copied and published, but not both in any instance.

(b) Confidential information, such as the names of the shippers and consignees, marks and numbers, and both quantities and values of commodities shall not be copied from outward manifests or any other papers. Disclosure of special category export shipments which might endanger the security of the United States is not now permitted. Such restriction upon disclosure shall be in effect during any period covered by a finding by the President under section 1, of the act of August 9, 1950, as amended (50 U.S.C. 191). Such a finding is now in effect (Executive Order No. 10173, Oct. 18, 1950 (3 CFR, 1949–1953 Comp. p. 356; 15 F.R. 7005)).

(c) Of the information shown on inward manifests, only the name of the consignee, the general character of the commodity, the quantity (or value), name of vessel, and the country of dispatch shall be copied and published. When an inward manifest shows both quantity and value of the commodity, either may be copied and published, but not both in any instance.

(d) Accredited representatives of regularly established associations, whether incorporated or not, shall be permitted to examine vessels' manifests for the purpose of securing data relative to merchandise of the kind or class in the importation of which the association is interested, subject to the foregoing rules; but this authority does not extend to attorneys or customs brokers representing individual importers.

§ 26.6 Review of data.

All copies and notations from inward or outward manifests shall be submitted for examination by a customs officer designated for that purpose.

§ 26.7 Suspension of disclosure.

(a) Upon written application of a consignee or importer, the collector of customs shall refuse to permit any person, except as provided in § 26.4, to copy the name of such consignee from manifests.

(b) If any individual shall abuse the privilege granted him of examining inward and outward manifests or shall make any improper use of any information or data obtained from such manifests or other papers filed in the customhouse, both he and the party or publication which he represents shall thereafter be denied access to such papers.

PART 30—FOREIGN-TRADE ZONES

Sec.

30.1 Merchandise permitted in a zone.
30.2 Use of zone by carriers.
30.3 Transportation of merchandise to a zone.
30.4 Who may file a zone application.
30.5 Admission of merchandise into a zone.
30.6 Privileged foreign merchandise.
30.7 Privileged domestic merchandise.
30.8 Non-privileged foreign merchandise.
30.9 Non-privileged domestic merchandise.
30.10 Zone-restricted merchandise.
30.11 Customs control of merchandise in a zone.
30.12 Manipulation, manufacture, or exhibition in a zone.
30.13 Destruction of merchandise in a zone.
30.14 Sending merchandise from a zone into customs territory.
30.15 Direct exportation from a zone.
30.16 Supplies, equipment, and repair material for vessels or aircraft.
30.17 Transfer of merchandise from one zone to another.
30.18 Reimbursement of customs expenses.

AUTHORITY: §§ 30.1 to 30.18 issued under R. S. 161, 251, secs. 1–21, 48 Stat. 998, 999, as amended, 1000–1003, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 81a–81u, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States.

§ 30.1 Merchandise permitted in a zone.

Foreign and domestic merchandise of every description, except such as is prohibited by law, may be brought into a foreign-trade zone (hereinafter in this part referred to as a "zone") established pursuant to the act of June 18, 1934, as amended by section 1 of the act of June 17, 1950 (19 U. S. C. 81a–81u, sec. 1, 64 Stat. 246), hereinafter in this part referred to as "the act"). Merchandise which is specifically and absolutely prohibited by law shall not be admitted into a zone.[1] Any merchandise so prohibited by law which is found within a zone shall be disposed of in the manner provided for in the laws and regulations applicable to such merchandise. A distinction is made between (a) merchandise which is specifically and absolutely prohibited by law on the grounds of policy or morals, such as immoral or subversive literature, obscene articles or lottery matter, and (b) merchandise which is subject to conditional prohibition only, for example, articles which are subject to permits or licenses for the protection of economic or national security or which may be reconditioned to bring them into compliance with the laws administered by various Federal Agencies. Collectors of customs are required to exclude the first class of articles and may not permit them to be transferred to a zone if they are aware of their prohibited status, except that the collector may permit the temporary deposit of any such merchandise in the zone pending final determination of its status. The transfer of articles of the second class to a zone is subject to any requirements of the Federal agency concerned. There is no prohibition against placing over-quota merchandise in a zone pending its right to transfer to customs territory pursuant to the applicable quota provisions. The application for the admission of merchandise into a zone shall be approved or disapproved by the collector, as the representative of the Foreign-Trade Zones Board (hereinafter in this part referred to as "the Board"), where the merchandise is not excluded by any other Federal agency having jurisdiction over it.

§ 30.2 Use of zone by carriers.

(a) The water area, docking facilities, or any loading or unloading stations of a zone are intended primarily for the use of vessels, vehicles, or aircraft unlading merchandise[2] into the zone or lading merchandise from the zone, and their use for other purposes may be terminated by the Secretary of the Treasury if found to endanger the revenue, or by the Board if found to impede the primary uses of the zone.

(b) Nothing in the act or the regulations in this part shall be construed as excepting any carrier entering, remaining in, or leaving a zone from the application of any other pertinent law or regulation.

§ 30.3 Transportation of merchandise to a zone.[3]

(a) Merchandise may be brought directly to a zone from any place outside customs territory[4] by vessel, vehicle, or aircraft.

(b) Domestic merchandise[5] may be brought to a zone from customs territory by any means of transportation which will not interfere with the orderly conduct of business in the zone.

(c) Foreign merchandise[6] destined to a zone and moving through customs territory outside a port shall be subject to the laws and regulations pertaining to the movement of like merchandise between two ports in customs territory.

(d) Foreign merchandise being transferred within a port to a zone shall be subject to the laws and regulations pertaining to the movement of like merchandise within the customs territory of the port before delivery to the importer.

§ 30.4 Who may file a zone application.

(a) This section tells who is authorized to apply for permission to transfer merchandise into a zone, to do anything with respect to the merchandise within the zone, or remove the merchandise from the zone. In general, the zone grantee shall have the sole responsibility for determining the legal right of the applicant to make the application. Accordingly, such applications shall show a written concurrence of the zone grantee, except where the regulations in this part provide for the filing of applications by the zone grantee itself, or permit the filing of blanket concurrences by the zone grantee. Government officers acting in their official capacities may question the zone grantee's concurrence if in their opinion it is improperly given. In the case of foreign merchandise brought into a zone through customs territory, the appropriate application as prescribed in § 30.5 must be filed by the person having a right to apply for release.

(b) The forms of application provided for in this part shall be filed in the number of copies required for the purposes of local administration.

§ 30.5 Admission of merchandise into a zone.

(a) This section tells how to obtain the right to unlade or bring merchandise into a foreign-trade zone.

(b) If the merchandise is to be unladen from any carrier in the zone for immediate transfer to customs territory, or if it is to be transferred from customs territory through the zone for immediate lading on any carrier therein, an application for permission to unlade or lade shall be filed on customs Form 3171 and the collector shall permit the unlading or lading unless he has reason to believe that the merchandise will not be moved promptly from the zone or made the subject of an application for zone status in accordance with paragraph (d) of this section. Any such merchandise shall not be considered within the purview of the act, but shall be treated in all respects as though the unlading or lading were in customs territory. Merchandise brought into a zone for lading on a carrier which is not laden without delay which will endanger the revenue must be made the subject of an application for zone status in accordance with paragraph (d) of this section or be removed from the zone.

(c) Imported merchandise which has been entered and which has remained in continuous customs custody may be temporarily transferred to a zone for manipulation under customs supervision pursuant to section 562, Tariff Act of 1930, as amended, and for return to customs territory. Any such merchandise shall not be considered within the purview of the Foreign-Trade Zones Act, but shall be treated in all respects as though remaining in customs territory. Therefore, no zone form or procedure shall be considered applicable, but the merchandise shall remain subject in the zone to such requirements as are necessary for the enforcement of section 562 and other pertinent customs laws.

(d) If the merchandise is to be unladen or brought into the zone for purposes other than as provided for in paragraph (b) of this section an applica-

---

[1] "Foreign and domestic merchandise of every description, except such as is prohibited by law, may, without being subject to the customs laws of the United States, except as otherwise provided in this Act, be brought into a zone * * *." 19 U. S. C. 81c)

[2] As used in this part the term "merchandise" means goods, wares and chattels of every description, except prohibited articles, and except the usual wearing apparel and accouterments of persons entitled to enter a zone.

[3] For transfer of merchandise from one zone to another zone, see § 30.17.

[4] As used in this part the term "customs territory" means territory of the United States in which the general tariff law of the United States applies but which is not included in any zone.

[5] As used in the act and in this part, the term "domestic merchandise" means merchandise of every description (not including prohibited articles) which has been (1) produced in the United States and not exported therefrom or (2) previously imported into customs territory and properly released from customs custody.

[6] As used in the act and in this part the term "foreign merchandise" means imported merchandise of every description (not including prohibited articles) which has not been properly released from customs custody in customs territory.

tion to transfer into the zone shall be filed on zone Form D. The approval of the grantee shall be noted on this application unless the grantee furnishes a specific or blanket approval separately in writing. In the case of merchandise to be unladen within a zone directly from an importing vessel or aircraft and intended to have zone status, an application for permission to unlade shall also be filed on customs Form 3171. Before foreign merchandise being transported through customs territory may be brought into a foreign trade zone, a release order authorizing the transfer of the merchandise to the zone must be obtained from the carrier bringing the merchandise to the port at which the zone is located. The release order shall be noted on the application Form D unless the carrier has given the release order as a separate document. Whether the release order is noted on application Form D or is given as a separate document, application Form D shall be supported by evidence of the right of the applicant to transfer the merchandise to the zone. This evidence shall be the same as would be required to establish the right of the applicant to apply for release of the merchandise from customs custody at the end of its transit through customs territory. Such evidence usually consists of an original bill of lading in the name of the applicant, an original bill of lading endorsed to him, or a carrier's certificate.[7] Every application made under this paragraph shall indicate the zone status desired as follows:

(1) Privileged foreign merchandise,

(2) Privileged domestic merchandise,

(3) Non-privileged foreign merchandise,

(4) Non-privileged domestic merchandise, or

(5) Zone-restricted merchandise.

(e) No merchandise shall be transferred into a zone until an application has been filed and a permit issued for the transfer, as set forth in paragraph (b) or (d) of this section.

(f) The collector may cause any merchandise in a zone to be examined at the time of admission, or at any time thereafter, if the examination is deemed necessary to facilitate the proper administration of any law, regulation, or instruction which the Customs Service is authorized to enforce.

[7] See § 8.6 of this chapter.

(g) Whenever a certificate as to the arrival of any merchandise in a zone is required by a Federal agency the collector shall issue the certificate, properly describing and identifying the merchandise involved.

§ 30.6 Privileged foreign merchandise.

(a) This section tells how to obtain a privileged status for foreign merchandise, and what are the legal incidents of such status.

(b) Merchandise within the purview of the first proviso to section 3 of the act, as amended,[8] shall be given status as privileged foreign merchandise on proper application. Each application for this status shall be filed on zone Form B, with the application for admission of the merchandise into the zone, or at any time thereafter and before the merchandise has been manipulated or manufactured in the zone in a manner which has effected a change in its tariff classification. Each applicant for such status shall file with his application a zone customs entry on customs Form 7502. Upon acceptance of the entry, the collector shall cause the merchandise to be appraised and taxes determined and duties liquidated thereon promptly. The taxes to be determined are those of the same nature as are indicated in the liquidation of entries of imported merchandise in customs territory.

(c) A status as privileged foreign merchandise and the consequent determination of taxes and liquidation of duties cannot be abandoned, but remain applicable to the merchandise even if changed in form by manipulation or manufacture, except in the case of recoverable waste, as long as the merchandise remains within the purview of the act.

(d) The procedure in connection with the preparation, filing, and acceptance of the entry, the making of notations on invoices, the preparation of customs Form 6417, the designation of examination packages or quantities, and the examination and appraisement of the merchandise shall be the same as that prescribed in the case of an entry for warehouse made in customs territory, except that no bond shall be required.

(e) Application may be made for permission to manipulate, manufacture, or exhibit any privileged foreign merchandise before taxes have been determined and duties liquidated thereon, but in such case the examination for purposes of appraisement must be completed, or the packages or samples required for such examination must be segregated, before the collector approves the application.

(f) Privileged foreign merchandise shall be subject to appraisement and tariff classification according to its condition and quantity, and to the rates of duty and tax in force, on the date of the filing with the collector, in complete and proper form for approval, of the request on zone Form B for privileged foreign status and the zone customs entry which is required to accompany it. The value of such merchandise shall be determined in accordance with sections 402 and 503 of the Tariff Act of 1930 and the related provisions of law.

(g) For all customs purposes, the date of exportation of privileged foreign merchandise from the country whence it was exported to the United States is the date of its final departure from that country, in accordance with § 14.3 (b) of this chapter.

(h) The value declared in any zone customs entry for privileged merchandise may be amended in accordance with the provisions of section 487, Tariff Act of 1930, and the regulations thereunder.[9]

(i) With respect to privileged foreign merchandise, the requirements, privileges, and procedures of notices of appraisement, appeals for reappraisement, posting of liquidations, and protests against decisions of the collector are the same as those prescribed in the case of merchandise covered by an entry for warehouse in customs territory.

(j) The original of the application on zone Form B when approved by the zone grantee shall be accepted by the collector as the equivalent of a bill of lading or carrier's certificate to identify the person designated in such Form B as the consignee of the merchandise and its owner for customs purposes, except that such person may transfer the right to withdraw such merchandise from the zone to customs territory in accordance with § 30.14 (f).

§ 30.7 Privileged domestic merchandise.

Merchandise within the purview of the second proviso to section 3 of the act, as amended,[10] shall be given status as privileged domestic merchandise on proper application. Application for this status shall be included in the application to transfer the merchandise into the zone on zone Form D, as provided for in § 30.5 (d). In such cases the evidence of the right of the applicant to transfer the merchandise to the zone provided for in that section and the release order of the carrier are not required. If the collector is satisfied that the revenue will be protected, and the rights of importers will not be prejudiced, he may permit the transfer to a zone of

[8] "* * * *Provided*, That whenever the privilege shall be requested and there has been no manipulation or manufacture effecting a change in tariff classification, the collector of customs shall take under supervision any lot or part of a lot of foreign merchandise in a zone, cause it to be appraised and taxes determined and duties liquidated thereon. Merchandise so taken under supervision may be stored, manipulated, of manufactured under the supervision and regulations perscribed by the Secretary of the Treasury, be exported or destroyed, or may be sent into customs territory upon the payment of such liquidated duties and determined taxes thereon. If merchandise so taken under supervision has been manipulated or manufactured, such duties and taxes shall be payable on the quantity of such foreign merchandise used in the manipulation or manufacture of the entered article. Allowance shall be made for recoverable and irrecoverable waste; and if recoverable waste is sent into customs territory, it shall be dutiable and taxable in its condition and quantity and at its weight at the time of entry. Where two or more products result from the manipulation or manufacture of merchandise in a zone the liquidated duties and determined taxes shall be distributed to the several products in accordance with their relative value at the time of separation with due allowance for waste as provided for above: * * *." (Sec. 1, Pub. Law No. 566, 81st Cong.).

[9] See § 8.16 of this chapter.

[10] "* * * *Provided further*, That subject to such regulations respecting identity and the safeguarding of the revenue as the Secretary of the Treasury may deem necessary, articles, the growth, product, or manufacture of the United States, on which all internal-revenue taxes have been paid, if subject thereto, and articles previously imported on which duty and/or tax has been paid, or which have been admitted free of duty and tax, may be taken into a zone from the customs territory of the United States, placed under the supervision of the collector, and whether or not they have been combined with or made a part, while in such zone, of other articles, may be brought back thereto free of quotas, duty or tax: * * *." (19 U. S. C. 81c)

domestic packing and repair materials and other adjunctive articles without requiring an application on zone Form D. If the requirements of the second proviso are complied with, any of the foregoing may subsequently be brought back to customs territory free of quotas, duty, or tax.

§ 30.8 Non-privileged foreign merchandise.

(a) All the following shall have the status of non-privileged foreign merchandise.

(1) Foreign merchandise properly in a zone which does not have the status of privileged foreign merchandise or of zone-restricted merchandise;

(2) Waste recovered from any manipulation or manufacture of privileged foreign merchandise; and

(3) Domestic merchandise which will be subject to treatment as foreign merchandise as provided for in the third proviso to section 3 of the act as amended,[11] if removed to customs territory.

(b) Any domestic merchandise shall be deemed to have lost its identity as such for the purposes of paragraph (a) (3) of this section if the collector shall determine that it cannot be identified positively by customs officers as domestic merchandise on the basis of their examination of the articles and their consideration of any proof that may be submitted promptly by a party in interest.

§ 30.9 Non-privileged domestic merchandise.

All merchandise which could have obtained the status of privileged domestic merchandise but for which no application for such status has been approved (not including any merchandise within the purview of § 30.8 (a) (3)) shall have the status of non-privileged domestic merchandise.

[11] "*Provided further*, That if in the opinion of the Secretary of the Treasury their identity has been lost, such articles not entitled to free entry by reason of non-compliance with the requirements made hereunder by the Secretary of the Treasury shall be treated when they reenter customs territory of the United States as foreign merchandise under the provisions of the tariff and internal-revenue laws in force at that time: * * *." (19 U. S. C. 81c)

§ 30.10 Zone-restricted merchandise.

(a) Merchandise within the purview of the fourth proviso to section 3 of the act, as amended,[12] shall be given status as zone-restricted merchandise on proper application. Application for this status shall be included in the application to transfer the merchandise into the zone on zone Form D, as provided for in § 30.5 (d).

(b) If the merchandise is to be considered exported for the purpose of any Federal law other than the customs laws, the collector shall be satisfied that all pertinent laws, regulations, and rules administered by the Federal agency concerned have been complied with before he approves the application provided for in § 30.5 (d).

(c) If the applicant desires a zone-restricted status in order that the merchandise may be considered exported for the purpose of any customs laws, all pertinent customs requirements relating to actual exportations shall be complied with as though the admission of the merchandise into the zone constituted a lading on an exporting carrier at a port of final exit from the United States. Any declaration or form required for a case of actual exportation shall be modified to show that the merchandise has been deposited in a zone in lieu of actual exportation, and a copy of the approved application provided for in § 30.5 (d) may be accepted in lieu of any proof of shipment required in cases of actual exportation.

(d) If merchandise is transferred from a customs bonded warehouse into a zone, it shall have the status of zone-restricted merchandise when admitted into the zone in view of the provisions of the fourth proviso to section 3 of the act, and in all such cases the application provided for in § 30.5 (d), shall state that a zone-restricted status is desired for the merchandise. Merchandise taken into a zone for manipulation elsewhere than in a bonded warehouse under the provisions of section 562, Tariff Act of 1930, as amended, is not considered within the purview of the fourth proviso of section 3 of the act.

[12] "* * * *Provided further*, That under the rules and regulations of the controlling Federal agencies, articles which have been taken into a zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of—

"(a) The draw-back, warehousing, and bonding, or any other provisions of the Tariff Act of 1930, as amended, and the regulations thereunder; and

"(b) The statutes and bonds exacted for the payment of draw-back, refund, or exemption from liability for internal-revenue laws generally and the regulations thereunder.

"Such a transfer may also be considered an exportation for the purposes of other Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable. Such articles may not be returned to customs territory for domestic consumption except where the Foreign-Trade Zones Board deems such return to be in the public interest, in which event the articles shall be subject to the provisions of paragraph 1615 (f) of the Tariff Act of 1930, as amended: * * *." (19 U. S. C. 81c)

§ 30.11 Customs control of merchandise in a zone.

(a) No merchandise in a zone shall be removed therefrom in any manner or for any purpose except as provided for in the regulations in this part.

(b) If the collector deems it necessary for the protection of the revenue, he may require segregation of privileged foreign, privileged domestic, zone-restricted, and such other merchandise as he determines to be subject to special risks to the revenue.

(c) The operator of the zone shall keep the collector's office currently informed as to the location of any merchandise in the zone which is not within the purview of paragraph (b) of this section, and shall notify the collector promptly of any loss or damage that may occur to any merchandise in the zone.

§ 30.12 Manipulation, manufacture, or exhibition in a zone.

(a) Permission for manipulation, manufacture, or exhibition of merchandise in a zone may be obtained by filing with the collector an application on zone Form E. No such operation shall be carried on until the collector has approved the application.

(b) The application shall include a full description of the proposed operation; a designation of the exact place in the zone where the operation is to be performed; the identification of the involved merchandise by lot number, marks and numbers of the packages, description, quantity, and zone status; and in the case of manipulation or manufacture a statement as to whether articles with one zone status are to be packed, commingled, or combined with articles having a different zone status.

(c) The collector shall approve the application unless the proposed operation would be in violation of the fourth or fifth proviso to section 3 of the act, as amended,[13] or the place designated for its performance is not suitable for preventing confusion as to the identity or status of the merchandise and for safeguarding the revenue.

(d) In the event of the denial of any application by the collector for any reason, the applicant, the grantee of the zone, or the operator of the zone, may appeal the adverse ruling to the Board. If any revenue protection considerations are involved in such an application, the Board shall be guided by the determinations of the Secretary of the Treasury with respect to them.

(e) When any privileged merchandise is to be manipulated in any way or manufactured, the person performing the operation shall maintain records containing the following information:

(1) A full identification, as specified in paragraph (b) of this section, of each lot of privileged merchandise used in the operation,

(2) The unit and total values of each such lot, the values in the case of privileged foreign merchandise to be those declared in the zone customs entry, including any amendment thereof,

(3) The commercial name or description of the product resulting from the op-

[13] The fourth proviso is quoted in footnote 12.

"* * * *Provided further*, That no operation involving any foreign or domestic merchandise brought into a zone which operation would be subject to any provision or provisions of section 1807, chapter 15, chapter 16, chapter 17, chapter 21, chapter 23, chapter 24, chapter 25, chapter 26, or chapter 32 of the Internal Revenue Code if performed in customs territory, or involving the manufacture of any article provided for in paragraph 367 or paragraph 368 of the Tariff Act of 1930, shall be permitted in a zone except those operations (other than rectification of distilled spirits and wines, or the manufacture or production of alcoholic products unfit for beverage purposes) which were permissible under this Act prior to July 1, 1949: * * *." (19 U. S. C. 81c)

eration, or of each such product if there are more than one,

(4) The quantity of such product or of each such product, as the case may be,

(5) The commercial name or description and quantity of each kind of waste recovered from the operation, and

(6) The description (i. e., evaporation, leakage, spillage, dust, etc.) and quantity of each kind of total physical loss resulting from the operation.

If any non-privileged merchandise is to be used in the operation, records shall be maintained containing a full identification, as specified in paragraph (b) of this section, and the unit and total values of each lot of the merchandise used in the operation.

§ 30.13 Destruction of merchandise in a zone.

(a) Each application to destroy merchandise in a zone shall be filed with the collector on zone Form E.

(b) The application shall include a description of the proposed method of destruction, a designation of the place where the destruction is to be accomplished, and an identification of the merchandise as in the case of an application for permission to manipulate (§ 30.12 (b)).

(c) The destruction of distilled spirits, wines, and fermented malt liquors having a zone-restricted status may not be authorized in view of the exception in the fourth proviso to section 3 of the act, as amended. In any other case, if the collector is satisfied that the destruction will be effective and that the revenue will be adequately protected, he shall approve the application. If proper destruction can not be effectively accomplished within the zone, the collector may permit it to be done elsewhere, in whole or in part, under such conditions as he shall specify for protecting the revenue. Any residue of destruction which is entirely worthless may be removed to customs territory for disposal.

§ 30.14 Sending merchandise from a zone into customs territory.

(a) When privileged domestic merchandise which has not been mixed, combined, or repacked in the zone with merchandise having a different zone status is to be transferred from the zone to customs territory, the zone grantee shall submit to the collector a description of the proposed transaction, in triplicate, and signed by him which shall include:

(1) The proposed date of transfer;

(2) The identification of the carrier;

(3) The destination of the shipment;

(4) Identification of the merchandise by zone storage location, lot number, marks and numbers of the packages, description, quantity, and zone status; and

(5) A notation as to any shortage or damage.

If the transfer is approved by the collector the original of the description shall be so stamped to serve as a permit of delivery, the original and one copy shall be returned to the grantee, and the triplicate shall be retained by the collector. If a form of tally prepared by the zone grantee for its purposes contains the necessary information, it may be accepted by the collector as the description required by this paragraph. No document other than the permit of delivery shall be required to release the merchandise to the grantee and authorize its transfer into customs territory.

(b) When privileged foreign merchandise which has not been mixed, combined, or repacked in the zone is to be transferred to customs territory otherwise than for exportation, a zone withdrawal on customs Form 7505 shall be filed as an application for the transfer (see § 30.4). Such withdrawal shall be supported by a bond on customs Forms 7551, 7553, or other appropriate form, and the applicant shall pay the liquidated duties and determined taxes, as assessed in the liquidation of the pertinent zone customs entry, for the quantity of merchandise to be transferred. Such bond shall not be required when all the merchandise to be transferred to customs territory has been inspected, examined, and appraised, and has been found to comply with all laws and regulations governing its admission into the commerce of the United States, and there have been produced all documents for the production of which a bond is required by law or regulations if not filed at the time of entry. If the pertinent zone customs entry has not been liquidated estimated duties and taxes shall be deposited. Upon acceptance of the withdrawal, the collector shall release the merchandise to the grantee for delivery.

(c) When a product of a manipulation or manufacture in a zone composed of or derived from privileged merchandise only, whether all foreign, or partly foreign and partly domestic, is to be transferred to customs territory otherwise than for exportation, a zone withdrawal shall be filed as prescribed in paragraph (b) of this section. There shall be filed with the withdrawal a statement in the form of an invoice containing the information specified in § 30.12 (e), and when necessary to support the withdrawal, application may be made for a certificate on zone Form F covering identification as shown by the customs records of any privileged domestic or privileged foreign merchandise used in the manipulation or manufacture.

(d) When merchandise described in paragraph (b) or (c) of this section is to be transferred to customs territory otherwise than for exportation and it is desired to pay the duties and taxes at a port other than the port in which the zone is located, the merchandise shall be withdrawn for transportation to the other port on customs Form 7512 which shall clearly indicate the status of the merchandise, and the withdrawal for consumption at the other port shall be made in the manner prescribed in paragraph (b) or (c) of this section except that customs Form 7519 shall be used. The collector at the zone port shall issue a certificate in triplicate, describing the merchandise in its present condition and certifying the amount of duties and taxes and applicable to the shipment, and the duplicate copy of such certificate shall be given to the importer to be filed with the withdrawal for consumption.

(e) When merchandise described in paragraph (b) or (c) of this section is to be transferred to customs territory for exportation, a withdrawal for exportation, or for transportation and exportation, shall be filed on customs Form 7512. Upon acceptance of the withdrawal the collector shall make a notation as to the status of the merchandise on the document, and release the merchandise to the grantee for delivery to the bonded cartman, lighterman, or carrier.

(f) The applicant on customs Form 7505 or 7519 for purposes described in paragraph (b), (c), or (d) of this section shall be the consignee named in zone Form B as approved by the grantee (see § 30.6 (j)), except that such consignee may transfer the right to transfer the merchandise from the zone to customs territory by an endorsement on customs Form 7505 or 7519, whichever is applicable, naming a designated transferee. Customs Form 7505 or 7519 so endorsed with the name of a designated transferee who has been approved by the grantee shall be accepted by the collector to identify the transferee named therein as the consignee of the merchandise to be transferred and the owner thereof for customs purposes.

(g) When merchandise not covered by paragraph (a), (b), (c), (d), or (e) of this section, or either of the last two sentences of § 30.13 (c), is to be transferred from a zone to customs territory, the grantee shall make an application to the collector on zone Form C. The applicant shall state the name and address of the person who will be deemed the consignee of the merchandise when it is transferred to customs territory. The collector shall not accept a term application on Form C. The applicant shall also include a complete identification of the merchandise as it entered the zone, including the lot numbers, marks and numbers of the packages, status of each lot, description, and quantities. If any change in respect of any of the foregoing items of identification occurred while the merchandise was in the zone, the current information with respect to each such item which has been changed shall also be stated.

(h) Upon the approval by the collector of an application on zone Form C, the merchandise is transferred to constructive customs territory, without physical removal from the zone. The collector shall note on the application the date of such constructive transfer and the zone status of the merchandise. Merchandise so constructively transferred shall be marked or labeled with the initials "C. T.". For all customs and internal revenue purposes the merchandise shall be considered to have been imported into customs territory at the time of the constructive transfer.

(i) (1) If a customs entry for disposition in customs territory of the constructively transferred merchandise has not been filed in proper form before 5 p. m. of the second working day after the constructive transfer of the merchandise, or within such longer time as may be specified in a lay-order issued by the collector upon a written application of the grantee or designated consignee filed with the collector on customs

Form 3189, and approved by the grantee if made by the consignee, the merchandise shall be deposited by the collector in general order storage. However, if it is desired to restore the merchandise to a zone status after it has been constructively transferred and before the expiration of the lay-order period specified above, a new zone Form D may be filed and the same procedure followed as though the merchandise had then first arrived in the zone from or through customs territory (§ 30.5 (d)). In such a case, the zone grantee shall be deemed the carrier which brought the merchandise to the port.

(2) As an alternative to the filing of a new zone Form D the applicant may, if he so desires, arrange for the redelivery to the collector, prior to the filing of a customs entry and prior to the expiration of the lay-order period specified above, of the grantee's original copy of the zone Form C with a request that it be cancelled.

(j) The original of zone Form C, when approved by the collector and endorsed as provided for in paragraph (h) of this section, shall be accepted by the collector as the equivalent of a bill of lading or carrier's certificate to identify the person designated in such Form C as the consignee of the merchandise and its owner for customs purposes.

(k) When a consumption entry is accepted for zone merchandise which is in constructive customs territory, the collector shall release the merchandise to the grantee for delivery to the consignee. When any other entry is accepted for such merchandise, the release of the merchandise by the collector for physical removal to the designated destination in customs territory shall be in accordance with the customs regulations as to merchandise imported into customs territory, the zone grantee to be considered as the importing carrier.

(l) The products described in subparagraphs (1), (2), or (3) of this paragraph, upon transfer from a zone and entry for consumption, either immediately or after transportation in bond, shall be subject to appraisement and tariff classification in accordance with their character, condition, and quantity at the time of their constructive transfer to customs territory in accordance with paragraph (h) of this section, and at the rate or rates of duty and tax in force at the time entry is made in customs territory as stated in § 8.4(d) of this chapter. The value of such products shall be determined in accordance with sections 402 and 500 of the Tariff Act of 1930 and the related provisions of law.

(1) Articles composed entirely of, or derived entirely from, non-privileged merchandise, foreign or domestic.

(2) Articles composed in part of, or derived in part from, non-privileged merchandise, domestic or foreign, and in part of or from privileged merchandise, domestic or foreign.

(3) Recoverable waste resulting from the manipulation or manufacture in a zone of privileged foreign merchandise. Any of the articles described in subparagraphs (1), (2), or (3) of this paragraph, except articles composed in part of, or derived in part from, privileged foreign merchandise, may be transferred from a zone for entry for warehousing, either immediately or after transportation in bond, subject to the treatment specified in the first two sentences of this paragraph. There shall be filed with each entry covering articles described in subparagraph (2) of this paragraph a statement in the form of an invoice containing the information specified in § 30.12 (e). When necessary to support the entry, application may be made for a certificate on zone Form F covering identification as shown by the customs records of any privileged domestic or privileged foreign merchandise in the articles.

(m) The consumption or warehouse entry covering a product provided for in paragraph (l) of this section shall be liquidated in accordance with Part 16 of this chapter, except that in the case of articles described in paragraph (l) (2) of this section adjustment shall be made for that part of the product which consists of or has been derived from privileged merchandise.

(n) Unless the Foreign-Trade Zones Board has ruled that the return of the merchandise to customs territory for domestic consumption is in the public interest, zone-restricted merchandise shall not be transferred to customs territory except under an entry for exportation or for transportation and exportation, or for destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or for transfer from one zone to another. Each such entry shall be subject to the pertinent provisions of paragraphs (g) to (k), inclusive, of this section, except that if the entry has not been filed in proper form before the expiration of the period mentioned in the first sentence of paragraph (i) of this section, the merchandise shall not be deposited by the collector in general-order storage but shall be considered as having been returned from constructive customs territory to the zone. Upon acceptance of the entry, it shall be endorsed by a customs officer to show that actual exportation of the merchandise is required by the fourth proviso to section 3 of the act, as amended. If the Board has ruled that the return of the merchandise to customs territory is in the public interest, after the merchandise has been constructively transferred to customs territory it may be entered for consumption, warehousing, or immediate transportation without appraisement, unless the Board in its ruling has specified which of these forms of entry shall be made. The entry shall be endorsed by the collector to show the authority under which the entry was made and that the merchandise is subject to the provisions of paragraph 1615 (f) of the Tariff Act of 1930, as amended.

(o) Articles produced or manufactured in a zone and returned to customs territory of the United States after having been exported without first having been transferred to customs territory otherwise than for exportation or for transportation and exportation shall be subject to the duties and taxes applicable to like articles of wholly foreign origin, unless it is conclusively established that they were produced or manufactured exclusively with the use of privileged domestic merchandise, the identity of which was maintained in accordance with the pertinent provisions of these foreign-trade zone regulations, in which case they shall be subject to the pertinent provisions of paragraph 1615, Tariff Act of 1930.[14]

[14] "• • • *Provided further*, That articles produced or manufactured in a zone and exported therefrom shall on subsequent importation into the customs territory of the United States be subject to the import laws applicable to like articles manufactured in a foreign country, except that articles produced or manufactured in a zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the second proviso of this section, may, on such importation, be entered as American goods, returned." (19 U. S. C. 81c)

§ 30.15 Direct exportation from a zone.

Regardless of its zone status, any merchandise in a zone may be exported directly therefrom upon compliance with the procedure prescribed in § 30.14 (a) for the transfer of privileged domestic merchandise to customs territory.

§ 30.16 Supplies, equipment, and repair material for vessels or aircraft.

(a) Any article in a zone, including zone-restricted merchandise, which is suitable for use on a vessel or aircraft entitled to the privileges of section 309, Tariff Act of 1930, as amended, as supplies, equipment, or repair material may be laden on such a vessel or aircraft in the zone or transferred from the zone to such a vessel or aircraft at a port of entry in the United States outside the zone, subject to any applicable limitation prescribed in such section 309.

(b) If the article is laden on the vessel or aircraft in the zone, the provisions of § 30.15 pertaining to direct exportations from the zone shall apply and, in addition, the pertinent provisions of §§ 10.59 to 10.65, inclusive, of this chapter shall also apply as though the article were being withdrawn in customs territory from continuous customs custody elsewhere than in a bonded warehouse for such lading. If the article is to be transferred from the zone to the vessel or aircraft at a port of entry outside the zone, the provisions of § 30.14 pertaining to transfers from a zone to customs territory for exportation shall apply, in which case, when constructive transfer to customs territory has been accomplished, the merchandise shall thereafter be liable to or exempt from duty or tax and be subject to any other applicable provisions of sections 309 and 317, Tariff Act of 1930, I.R.C. section 3451, and §§ 10.59 to 10.65, inclusive, of this chapter as though it were imported merchandise which had remained in continuous customs custody in customs territory elsewhere than in a bonded warehouse.

(c) Any article in a zone which is suitable for use as ground equipment for aircraft entitled to the privileges prescribed in section 309 or 317, Tariff Act of 1930, as amended, with respect to ground equipment may be used in the

zone, or transferred to customs territory for use, as ground equipment for such aircraft without payment of duty or any internal-revenue tax imposed upon or by reason of importation.

§ 30.17 Transfer of merchandise from one zone to another.

(a) The transfer of merchandise, other than privileged domestic, from a zone in one port of entry to a zone in another port shall be by bonded carrier under an entry for immediate transportation on customs Form 7512. The sending of the merchandise from the first zone into customs territory and its admission into the zone of destination shall be in accordance with §§ 30.14 (g) through (j) and 30.5 (d), respectively. All copies of the entry for immediate transportation shall bear a notation that the merchandise is being taken from the first zone for the purpose of transfer to the second zone.

(b) Upon removal of merchandise as specified in paragraph (a) of this section from the first zone, the collector in charge of the port in which such zone is located shall immediately forward to the collector in charge of the port in which the zone of destination is located a history of the merchandise as shown by the records of the first zone.

(c) The transfer of privileged domestic merchandise from one zone to another is not subject to customs control except that the removal of the merchandise from the first zone and its admission into the zone of destination shall be in accordance with §§ 30.14 (a) and 30.5 (d), respectively.

§ 30.18 Reimbursement of customs expenses.

(a) The Commissioner of Customs will assign to each zone the necessary customs officers and guards to maintain appropriate customs control over merchandise in a zone and to protect the revenue.

(b) All necessary cost of maintaining the additional customs services required under the act and these foreign-trade zone regulations shall be reimbursed to the Government by the grantee of the zone,[15] payment to be made monthly to the collector of customs.

[15] "* * * the cost of maintaining the additional customs service required under this act shall be paid by the operator of the zone." (Sec. 14, act of June 18, 1934; 19 U. S. C. 81n)

PART 31—CUSTOMHOUSE BROKERS

Sec.
- 31.1 Scope of part.
- 31.2 Licenses for customhouse brokers required.
- 31.3 Definitions.
- 31.4 Application for license; investigation and examination.
- 31.5 Issuance or denial of license.
- 31.6 Other representation by customhouse brokers.
- 31.7 Licenses for more than one customs district.
- 31.8 License, when not required.
- 31.9 Books and papers.
- 31.10 Other duties and obligations of customhouse brokers.
- 31.11 Revocation or suspension of licenses.
- 31.12 Cancellation of licenses.
- 31.13 Licenses issued under prior acts of Congress.
- 31.14 Appeal from the Secretary's decision.
- 31.15 Records of the Commissioner.

AUTHORITY: §§ 31.1 to 31.15 issued under R. S. 161, 251, secs. 624, 641, 46 Stat. 759, as amended, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1624, 1641, Gen. Hdnote. 11, Tariff Schedules of the United States.

§ 31.1 Scope of part.

This part sets forth regulations providing for the licensing as customhouse brokers of persons, including individuals, corporations, partnerships, and associations, desiring to transact business as customhouse brokers, the procedure for applying for licenses, and the qualifications required of the applicants. The regulations also prescribe the duties and responsibilities of customhouse brokers, the grounds for revocation or suspension of the licenses, and the procedures for such revocation or suspension.

§ 31.2 Licenses for customhouse brokers required.

(a) No person shall transact the business of a customhouse broker unless he has first been granted a license in accordance with the provisions of section 641, Tariff Act of 1930, as amended.[1] A license to transact business as a customhouse broker may be granted by the Commissioner of Customs upon applica-

[1] "(a) *Regulations for licensing.* The Secretary of the Treasury may prescribe rules and regulations governing the licensing as customhouse brokers of citizens of the United States of good moral character, and of corporations, associations, and partnerships, and may require as a condition to the granting of any license, the showing of such

(Footnote 1—Continued)

facts as he may deem advisable as to the qualifications of the applicant to render valuable service to importers and exporters. No such license shall be granted to any corporation, association, or partnership unless licenses as customhouse brokers have been issued to at least two of the officers of such corporation or association, or two of the members of such partnership, and such licenses are in force. Any license granted to any such corporation, association, or partnership shall be deemed revoked if for any continuous period of more than sixty days after the issuance of such license there are not at least two officers of such corporation or association or two members of such partnership who are qualified to transact business as customhouse brokers. Except as provided in subdivision (c) of this section, no person shall transact business as a customhouse broker without a license granted in accordance with the provisions of this subdivision, but nothing in this section shall be construed to authorize the requiring of a license in the case of any person transacting at a customhouse business pertaining to his own importations.

"(b) *Revocation or suspension.* The collector or chief officer of the customs may at any time, for good and sufficient reasons, serve notice in writing upon any customhouse broker so licensed to show cause why said license shall not be revoked or suspended, which notice shall be in the form of a statement specifically setting forth the ground of complaint. The collector or chief officer of customs shall within ten days thereafter notify the customhouse broker in writing of a hearing to be held before him within five days upon said charges. At such hearing the customhouse broker may be represented by counsel, and all proceedings, including the proof of the charges and the answer thereto, shall be presented, with the right of cross-examination to both parties, and a stenographic record of the same shall be made and a copy thereof shall be delivered to the customhouse broker. At the conclusion of such hearing the collector or chief officer of customs shall forthwith transmit all papers and the stenographic report of the hearing, which shall constitute the record of the case, to the Secretary of the Treasury for his action. Thereupon the said Secretary of the Treasury shall have the right to revoke or suspend the license of any customhouse broker shown to be incompetent, disreputable, or who has refused to comply with the rules and regulations issued under this section, or who has, with intent to defraud, in any manner willfully and knowingly deceived, misled, or threatened any importer, exporter, claimant, or client, or prospective importer, exporter, claimant, or client, by word, circular, letter or by advertisement.

"An appeal may be taken by any licensed customhouse broker from any order of the

(Footnote 1—Continued)

Secretary of the Treasury suspending or revoking a license. Such appeal shall be taken by filing, in the circuit court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, within sixty days after the entry of such order, a written petition praying that the order of the Secretary of the Treasury be modified or set aside in whole or in part. A copy of such petition shall be forthwith transmitted by the Clerk of the Court to the Secretary of the Treasury, or any officer designated by him for that purpose, and thereupon the Secretary of the Treasury shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part. No objection to the order of the Secretary of the Treasury shall be considered by the court unless such objection shall have been urged before the collector or chief officer of customs or unless there were reasonable grounds for failure so to do. The finding of the Secretary of the Treasury as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the Court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the collector or chief officer of customs, the court may order such additional evidence to be taken before the collector or chief officer of customs and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Secretary of the Treasury may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Secretary of the Treasury shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254, title 28 of the United States Code. The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the Secretary of the Treasury's order.

"(c) *Prior licenses.* Licenses issued under the Act of June 10, 1910 (36 Stat. 454; U. S. C., title 19, sec. 415), or under the provisions of subdivision (a) of this section prior to the effective date of this amendment, shall continue in force and effect, subject to suspension and revocation as provided in subdivision (b) of this section.

"(d) *Regulations by Secretary.* The Secretary of the Treasury shall prescribe such rules and regulations as he may deem necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations requiring the keeping of books, accounts, and records by customhouse brokers, and the inspection thereof, and of their papers, documents, and correspondence by, and the furnishing by them of information relating to their business to, any duly accredited agent of the United States." (Tariff Act of 1930, sec. 641, as amended; 19 U. S. C. 1641.)

tion submitted therefor, in accordance with the regulations in this part.

(b) No representative of the Treasury Department shall recognize or deal with any person transacting the business of a customhouse broker, or any employee, officer, or agent thereof, unless such person is licensed as a customhouse broker in accordance with the provisions of this part.

§ 31.3 Definitions.

When used in the regulations in this part, the following terms shall have the meanings, respectively, indicated:

(a) "Customhouse broker" includes any person who, acting on behalf of others, transacts customs business not limited to a kind described in § 31.8.

(b) "Treasury Department or any representative thereof" includes any division, branch, bureau, office, or unit of the Treasury Department, whether in Washington or in the field, and any officer or employee of any such division, branch, bureau, office or unit.

(c) "Commissioner" means the Commissioner of Customs.

(d) "Person" includes individuals, corporations, partnerships, and associations.

(e) "Books and papers" includes all books, accounts, records, papers, documents, and correspondence of a customhouse broker relating to his customs business.

(f) "Freight forwarder" means any person engaged in the business of dispatching shipments on behalf of other persons for a consideration, in foreign commerce between the United States, its territories or possessions, and foreign countries, and of handling the formalities incident to such shipments.

§ 31.4 Application for license; investigation and examination.

(a) *Application to Commissioner.* A person desiring to engage in the business of a customhouse broker shall submit to the collector of customs of the district in which the applicant intends to operate an application in duplicate, addressed to the Commissioner, stating his qualifications for a license. The application shall be under oath and executed on customs Form 3123 (individual), customs Form 3125 (partnership), customs Form 3127 (corporation), or customs Form 3129 (association), whichever is appropriate, and shall be accompanied by the fee of $100 prescribed by § 24.12 of this chapter. If the applicant is an individual who proposes to operate under a trade or fictitious name, evidence of the applicant's authority so to conduct business must accompany his application.

(b) *Posting application.* As soon as possible after an application has been filed, the collector of customs shall cause to be posted conspicuously in the customhouse at the headquarters port for the district and at the port where the applicant proposes to maintain his principal office the name and address of the applicant and, if the applicant is a corporation, an association, or a partnership, the names of the licensed officers or members thereof.

(c) *Examination of applicant.* The collector of customs shall notify the applicant, if an individual, to appear before a committee of examiners at a specified time and place in the customs district in which the applicant proposes to do business. The committee of examiners shall consist of not less than three nor more than five members designated as such by the Commissioner.

(d) *Purpose of examination.* The examination shall have for its purpose a determination of the applicant's knowledge of customs and related law and procedure and his fitness to render valuable service to importers and exporters. The Commissioner may from time to time furnish lists of suggestions for the guidance of committees of examiners in conducting such examinations. The examination may, at the option of the committee, be oral or written, but if oral shall be stenographically reported and transcribed, and in either case shall be transmitted forthwith to the collector of customs, with the report and recommendation of the committee of examiners.

(e) *Investigation of applicant*—(1) *Individual.* Upon the applicant's obtaining a satisfactory grade on the examination, his application shall be referred by the collector of customs to the supervising customs agent in charge of the district for investigation, report, and recommendation.

(2) *Corporation, association, or partnership.* Each application shall be referred by the collector of customs to the supervising customs agent in charge of the district for investigation, report, and recommendation.

(3) *Information desired.* The investigation shall seek information relevant to the question whether the application should be granted and shall cover, but need not be limited to, (i) the correctness of the statements made in the application, (ii) the business integrity of the applicant, and (iii) when the applicant is an individual (including an officer of a corporation or association or a member of a partnership), the character and reputation of the applicant.

(4) *Return of application to collector of customs.* The investigating agent shall return the application with his report and recommendation to the collector of customs who requested it. The collector shall forward them to the Commissioner, accompanied by the report and recommendation of the committee of examiners, if any. If he so desires, the collector may also submit his independent recommendation.

(f) *Additional investigation or examination.* The Commissioner shall endeavor to ascertain, without undue expense or inconvenience to the applicant, all facts deemed necessary to pass upon the application, and may require additional investigation to be conducted. In the event, however, that the Commissioner is not satisfied by the information received, he may require the applicant (or, in the case of a corporation, association, or partnership, one or more of its officers or members) to appear in person before the Commissioner or before one or more representatives of the Commissioner, for the purpose of undergoing additional written or oral examination into the applicant's qualifications for a license.

§ 31.5 Issuance or denial of license.

§ 31.5 Issuance or denial of license.

(a) *Issuance if applicant qualified.* If he finds that the applicant is qualified, the Commissioner will issue a license in such standard form as he shall have prescribed. The license shall be forwarded to the appropriate collector, who shall deliver it to the licensee after making a record thereof in a roster of licensed brokers which shall be maintained in the customhouse in such manner that it will be readily accessible to the proper customs officers and employees. The license for an individual who is an officer of a corporation or association or a member of a partnership will be issued in the name of the individual licensee, and not in his capacity as officer or member of the organization with which he is connected.

(b) *Denial of license.* (1) If the applicant fails to obtain a satisfactory grade on the examination, notice of denial shall be given by the collector to the applicant.

(2) At the request of the applicant, the Commissioner may allow a further opportunity to the applicant to present information or arguments in support of his application either by personal appearance or in writing, or both, in the discretion of the Commissioner.

(3) If the Commissioner determines that the application for license should be denied for any reason, notice of denial shall be given by the Commissioner to the applicant and to the collector of the district in which the applicant proposed to do business.

(c) *Grounds for denial of license.* The causes sufficient to justify denial of an application for a license shall include, but shall not be limited to, (1) any cause which would justify suspension or revocation of the license of a licensed customhouse broker under the provisions of § 31.11; (2) a failure to establish the business integrity and character of the applicant; (3) any gross misstatement of pertinent facts in the application; (4) any conduct which would be deemed grossly unfair in commercial transactions by accepted standards; (5) a bad reputation imputing to an applicant conduct of any of the foregoing types or of a criminal, dishonest, or unethical kind; (6) the minority of the applicant; or (7) a failure to establish sufficient knowledge by the applicant of customs and related law and procedures and fitness to render valuable service to importers and exporters. In the case of a corporation, association, or partnership, the application will be denied by the Commissioner unless it appears that the officers or members who are licensed customhouse brokers are to exercise responsible supervision and control of the transaction of the customs business of such corporation, association, or partnership. An individual who is unable for any reason to take the oath of allegiance and to support the Constitution of the United States shall not be licensed. An alien undergoing naturalization is ineligible to receive a license until he has received his final naturalization certificate. An officer or employee of the United States is ineligible to receive a license.

(d) *Review.* A decision of the Commissioner denying a license, upon the written request of the applicant, will be submitted to the Secretary of the Treasury for such review as the Secretary shall deem appropriate.

§ 31.6 Other representation by customhouse brokers.

A customhouse broker requires no further license or enrollment for the representation, within the customs districts in which he is licensed, at the office of the Regional Commissioner of Internal Revenue, or at the seat of the Government, of any person for whom he has acted as customhouse broker in respect of any matters relating specifically to the importation or exportation of merchandise under customs or internal-revenue laws.

§ 31.7 Licenses for more than one customs district.

Separate licenses shall be required if the licensee desires to transact customs business in more than one customs district. However, a licensee having a license in force in one district may on application to the Commissioner be granted a license to transact business in another district without further examination, provided it appears on investigation that the licensee is prepared and qualified to render efficient service in such other district. Licenses may be granted to partnerships with two licensed members, and to corporations and associations with two licensed officers, whether or not such members or officers are licensed in the district for which the partnership, corporation, or association license is granted.

§ 31.8 License, when not required.

(a) *Dealing for one's own account.* An importer or exporter transacting customs business solely on his own account and in no sense on behalf of another is not required to be licensed, nor are his authorized regular employees or officers who act only for him in the transaction of such business.

(b) *Transportation in bond by common carrier.* A common carrier transporting merchandise for another may make entry for such merchandise for transportation in bond without being licensed as a customhouse broker.

(c) *Marine transactions.* A person transacting business in connection with entry, clearance, or documentation of vessels or other regulation of vessels under the navigation laws is not required to be licensed as a customhouse broker.

(d) *Employees of licensed brokers.* An employee of a customhouse broker is not required to be licensed in order to act solely for his employer, but in order that such employee may sign customs documents on behalf of his employer the broker must file with the collector a power of attorney for that purpose. Each broker shall file with the collector at each port where the business is to be transacted an authorization specifically naming each employee who may properly act for him. A broker must promptly give notice of any change in the authority of any such employee and must exercise such supervision of his employees as will insure proper conduct on the part of the employees in the transaction of customs business. Each broker will be held strictly responsible for the acts or omissions of his employees within the scope of their employment, and for acts or omissions of such employees which, in the exercise of reasonable care and diligence, the broker should have foreseen. Every attorney in fact acting for a customhouse broker must be a resident of the United States.

§ 31.9 Books and papers.[2]

(a) Each customhouse broker shall maintain correctly and in orderly itemized manner, and keep current, records of account reflecting all his financial transactions as a customhouse broker. He shall keep and maintain on file a copy of each entry made by him, and copies of all his correspondence and other papers relating to his customs business.

(b) Except as provided for in paragraph (c) of this section, each customhouse broker shall keep on customs Form 3079 (Record of Transactions of Licensed Customhouse Broker), in accordance with the instructions printed thereon, records of all customs business transacted by him in behalf of his clients. If a transaction has been handled only in part by the broker, he need fill in only the appropriate part of his customs Form 3079. Records on customs Form 3079 shall be in addition to, and not in lieu of, the regular records of account required by paragraph (a) of this section to be kept and maintained.

(c) If the data prescribed to be recorded on customs Form 3079 are disclosed in other records regularly kept and maintained by a customhouse broker in a systematic, convenient, and readily available form which will permit an effective inspection thereof by duly accredited agents of the United States, such broker may, by notice in writing from the collector for the district, be exempted from the requirements of paragraph (b) of this section. Such notice of exemption shall be issued only if (1) a broker makes written application therefor to the collector, setting forth the facts as to the records he keeps and agreeing that if the exemption is granted he will not change his system of records or his manner of keeping and maintaining them without notification to and prior approval by the said collector and (2) the collector and the supervising customs agent for the district are satisfied that the records are and will be kept and maintained by the broker in conformity with the conditions above stated.

(d) Whenever it shall appear to the satisfaction of the collector, upon investigation by a duly accredited agent of the United States, that a broker to whom an exemption has been granted as provided for in paragraph (c) of this section is not keeping and maintaining records in conformity with the requirements of the said paragraph (c), the exemption of such broker shall be revoked by notice in writing from the collector, and such broker shall thereafter keep and maintain records on customs Form 3079 as above stated.

(e) All the books and papers required by the foregoing provisions of this section shall be kept on file for at least 5

[2] See section 641 (d) in footnote 1 to § 31.2.

years and maintained in such manner that they may readily be examined. Any or all such books and papers shall be made available to duly accredited agents of the United States on demand therefor within 5 years after their preparation or receipt by the broker, or within any longer period of time during which they remain in the possession of the broker. Each customhouse broker shall advise the Commissioner and the collector at the headquarters port in each district in which his license is held of each change of his business address. The broker shall also furnish such additional information regarding his activities as a customhouse broker as such agents may require.

(f) The supervising customs agent in charge of the agency district, or a customs agent designated by him, shall make such inspection of the books and papers required by this part to be kept and maintained by a customhouse broker as may be necessary to enable the supervising customs agent, the collector of customs, and other proper officials of the Treasury Department to determine whether or not the broker is complying with the requirements of this section. Furthermore, the supervising customs agent, or any duly accredited agent of the United States designated by him, may at any time, for the purpose of protecting importers or the revenue of the United States, inspect such books and papers to obtain information regarding specific customs transactions.

(g) The agent making any investigation contemplated by paragraph (f) of this section shall report his findings in full to the Commissioner and the collector.

(h) The books and papers referred to in this section and pertaining to the business of the clients serviced by the broker shall be considered confidential and the broker shall not disclose their contents or any information connected therewith to any persons other than such clients and duly accredited agents of the United States except on subpoena by a court of competent jurisdiction.

§ 31.10 Other duties and obligations of customhouse brokers.

(a) No customhouse broker shall permit his license or his name to be used by or for any unlicensed person, or by or for any broker whose license is under suspension, in the solicitation, promotion, or performance of any customs business or transaction.

(b) (1) No customhouse broker shall accept or retain employment from or with an unlicensed employer to transact customs business for others than the employer in such manner that the fees or other benefits resulting from the services rendered by the broker for others inure to the benefit of the unlicensed employer, except that a customhouse broker may compensate a freight forwarder for services rendered in obtaining brokerage business, provided that

(i) The importer shall be notified in advance by the forwarder or broker of the name of the customhouse broker selected by the forwarder for the handling of his customs transactions;

(ii) If the fees and charges for such brokerage services are to be collected by or through the forwarder, the customhouse broker shall transmit directly to the importer a true copy of his bill of charges as rendered to the forwarder. If, on the other hand, such fees and charges are to be collected by or through the customhouse broker, he shall transmit directly to the importer a statement of his bill of charges and an itemized list of any charges to be collected for the account of the freight forwarder.

(iii) No part of the agreement of compensation between the customhouse broker and the forwarder, nor any action taken pursuant thereto, shall forbid or prevent direct communication between the importer and the customhouse broker; and

(iv) In making such agreement and in all actions taken pursuant thereto, the customhouse broker shall be subject to all other provisions of these regulations and any amendments thereto.

(2) Where a customhouse broker is employed for the transaction of customs business by an unlicensed employer who is not the actual importer, a copy of the statement of charges made by the customhouse broker must be transmitted to the actual importer by the customhouse broker, except where the merchandise was purchased for delivery on an all free basis.

(c) No customhouse broker shall knowingly and directly or indirectly (1) accept employment to effect a customs transaction as associate, correspondent, officer, employee, agent, or subagent from any person whose license as a customhouse broker shall have been revoked for any cause, or whose license is under suspension, or who has surrendered his license "with prejudice," or who is notoriously disreputable, or (2) assist the furtherance of any customs business or transactions of such person, or (3) employ, or accept such assistance from, any such person, or (4) share fees with any such person, or (5) permit any such person directly or indirectly to participate, whether through ownership or otherwise, in the promotion, control, or direction of the business of the broker: *Provided,* That nothing herein shall be deemed to prohibit any customhouse broker from acting as a customhouse broker for any bona fide importer or exporter, notwithstanding such importer or exporter may have had his license as a customhouse broker revoked or suspended, or may be disreputable: *And further provided,* That nothing herein shall be deemed to prohibit any person whose license has been revoked or surrendered with prejudice from petitioning the Commissioner to exercise his discretion to relieve him of the disabilities imposed by subparagraph (3) of this paragraph. Any such petition shall be filed no less than 5 years after the revocation of the petitioner's license, or its surrender with prejudice as the case may be. The Commissioner shall not approve any such petition unless he is satisfied that the petitioner has refrained from all activities in any way violative of the provisions of this paragraph and is also satisfied that in all other respects the petitioner's conduct has been exemplary during the period of disability under this paragraph. The Commissioner shall also give consideration to the gravity of the misconduct which gave rise to the petitioner's disability. In any case in which such misconduct led to pecuniary loss to the Government or to any person, the Commissioner shall also take into account whether the petitioner has made reimbursement for the losses incurred.

(d) No customhouse broker shall act in behalf of any person, or attempt to represent any person, in respect of any protest or appeal for reappraisement, unless he shall previously have been specifically or generally authorized to do so by such person.

(e) No customhouse broker shall knowingly use false or misleading representations to procure employment in any customs matter, nor shall he represent to a client or prospective client that he can obtain extraordinary favors from the Treasury Department or any representative thereof.

(f) No customhouse broker shall represent a client before the Treasury Department or any representative thereof in any matter to which the broker, as officer or employee, gave personal consideration, or as to the facts of which he gained knowledge, while in the Government service.

(g) No customhouse broker shall knowingly (1) assist a person who has been employed by a client in a matter pending before the Treasury Department or any representative thereof to which matter such person gave personal consideration or gained personal knowledge of the facts or issues thereof while in the Government service, or (2) accept assistance in any such matter from any such person, or (3) share fees in any such matter with any such person.

(h) No customhouse broker shall suggest to a client or a prospective client a plan known to be illegal for evading payment of any duty, tax, or other debt or obligation owing to the Government.

(i) Each customhouse broker who knows that a client has not complied with the law or has made any error in, or omission from, any document, affidavit, or other paper which the law requires such client to execute shall advise his client promptly of the fact of such noncompliance, error, or omission.

(j) Each customhouse broker shall exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any customs business; and no customhouse broker shall knowingly impart to a client false information relative to any such business when such false information is or might be detrimental to the interests of the Government, the client, or any other person.

(k) No customhouse broker shall withhold information relative to any customs business from a client who is entitled to the information.

(l) Each customhouse broker shall promptly pay over to the Government when due all sums received for the payment of any duty, tax, or other debt or obligation owing to the Government, and shall promptly account to clients for funds received for them from the Government, or received from a client in excess of the governmental or other

charges properly payable in respect of the client's customs business.

(m) No customhouse broker shall endorse or accept without authority of his client any Government draft, check, or warrant drawn to the order of such client.

(n) With respect to merchandise imported after March 15, 1962, no customhouse broker shall demand or accept from any attorney (whether directly or indirectly, including, for example, from a client as a part of any arrangement with an attorney) on account of any case litigated in any court of law or an account of any other legal service rendered by an attorney any fee or remuneration in excess of an amount measured by or commensurate with the time, effort and skill expended by the broker in performing services in that case.

(o) No customhouse broker shall file or procure or assist in the filing of any claim, or of any document, affidavit, or other paper, known by such broker to be false, nor shall knowingly give, or solicit or procure the giving of, any false or misleading information or testimony in any matter pending before the Treasury Department or any representative thereof.

(p) Each customhouse broker shall exercise due diligence in answering correspondence, in making financial settlements, and in preparing, or assisting in the preparation and filing of, documents relating to any matter handled by him as a customhouse broker.

(q) No customhouse broker shall procure, or attempt to procure, directly or indirectly, information from Government records or other Government sources of any kind to which access is not granted by proper authority.

(r) No customhouse broker shall attempt to influence the conduct of any representative of the Treasury Department in any matter pending before the Treasury Department or any representative thereof by the use of a threat, false accusation, duress, or the offer of any special inducement or promise of advantage, or by bestowing any gift or favor or other thing of value.

(s) No customhouse broker shall refuse access to, conceal, remove, or destroy the whole or any part of any book, paper, or other record, relating to his transactions as a customhouse broker, which is being sought, or which the broker has reasonable grounds to believe may be sought, by the Treasury Department or any representative thereof, or shall otherwise interfere, or attempt to interfere, with any proper and lawful efforts by such Department or representative to procure such information.

(t) Every licensed officer or member of a corporation, association, or partnership, which is licensed as a customhouse broker, shall exercise responsible supervision and control over the transaction of the customhouse business of such corporation, association, or partnership.

(u) A customhouse broker who is authorized by State law to transact business under a fictitious or trade name, and who proposes to so operate, shall submit evidence of his authority so to do and receive the approval of the Commissioner before he uses such name, and, when signing customs documents, shall affix his own name in conjunction with each signature of the fictitious or trade name.

§ 31.11 Revocation or suspension of licenses.

(a) Failure or refusal to comply with the duties, obligations, or requirements specified in § 31.10 or elsewhere in this part relating to customhouse brokers may be deemed grounds for suspension or revocation of the license of a customhouse broker, but such duties, obligations, or requirements are not to be considered as exclusive, as conduct not within the purview of any specification of this part may be deemed to be conduct warranting the suspension or revocation of a license under the authority of section 641(b), Tariff Act of 1930, as amended.[3]

(b) A proceeding for the revocation or suspension of a customhouse broker's license shall be governed by the following rules, subject to the Tariff Act of 1930, as amended, and the Administrative Procedure Act (5 U. S. C. 1001–1011):

(1) *Inability of collector to act.* In the case of sickness or necessary absence of the collector which prevents him from acting as provided for in this section, the assistant collector shall be deemed the chief officer of the customs referred to in amended section 641 (b), Tariff Act of 1930, and shall perform the duties of the collector prescribed in this section.

(2) *Investigation.* Every complaint or charge against any customhouse broker filed with a collector or other customs officer shall forthwith be forwarded for investigation to the supervising customs agent in charge of the district in which the broker is located. The supervising customs agent shall make his report and transmit it, with recommendation, to the collector of the appropriate district for such action as may be necessary, and shall also transmit a copy thereof to the Commissioner.

(3) *Abatement of charges.* If the collector determines that there is not sufficient evidence to prefer charges, he shall report all the facts to the Commissioner.

(4) *Institution of proceedings.* If the collector determines that there is sufficient evidence to prefer charges, he shall institute and conduct, subject to the applicable provisions of this section, a proceeding pursuant to amended section 641 (b), Tariff Act of 1930.

(5) *Drafting of notice.* The collector may request the Commissioner to assist in the preparation of the statement of charges to be served upon the accused broker. If the statement is prepared in the field, it shall be submitted to the Commissioner for review before being made the basis of action.

(6) *Opportunity to avoid proceeding.* The collector, before a proceeding is instituted, shall give to the accused broker a preliminary notice in writing that:

(i) Transmits a copy of the proposed statement of charges, or a specification of the substance thereof;

(ii) Cites sections 5 (b) and 9 (b) of the Administrative Procedure Act (5 U. S. C. 1004 (b) and 1008 (b));

(iii) Calls upon the accused broker to show cause, if he so desires, why the proceeding should not be instituted;

(iv) Informs the accused broker that the notice affords him opportunity to make submissions and demonstrations of the character contemplated by the cited statutory provisions;

(v) Invites any negotiation that the accused broker deems it desirable to enter into; and

(vi) Specifies a reasonable time for response to that notice: *Provided,* That, if prior to service of the statement of charges, the collector determines that the case is one where such preliminary notice would be improper and unnecessary, he shall incorporate his findings and his reasons therefor in the statement of charges, and the statement of charges shall be served without first giving such preliminary notice.

(7) *Service of statement of charges.* Notice of the charges, signed by the collector, shall be served upon the accused customhouse broker in the following manner:

(i) If an individual:

(*a*) By delivery to the accused broker personally, or

(*b*) By registered mail, with demand for a return card signed solely by the addressee.

(ii) If a corporation, association, or partnership:

(*a*) By delivery to any officer of such corporation or association, or member of such partnership, or

(*b*) By registered mail addressed to any such officer or member, with demand for a return card signed solely by the addressee: *Provided,* That, if a customhouse broker shall have signed and filed with the Commissioner his written consent to be served in some other manner, it shall be sufficient if service is made in that manner. Where the service is by registered mail, the receipt of the return card duly signed shall be satisfactory evidence of service.

(8) *Content of statement of charges.* The notice of charges shall state the place where and time within which the accused may file in duplicate his verified answer, and shall contain or be accompanied by a statement of charges, which statement shall be signed by the collector, giving a plain and concise, but not necessarily detailed, description of the facts which it is claimed constitute grounds for suspension or revocation of license. A statement of charges which fairly informs the accused of the charges against him so that he is able to prepare his defense shall be deemed sufficient. Different means by which a purpose might have been accomplished or different intents with which acts might have been done so as to constitute grounds for suspension or revocation of license may be alleged in the statement of charges in a single count in the alternative. If, in order to prepare his defense, the accused desires additional information as to the time and place of the alleged misconduct, or the means by which it was committed, or any other more specific information concerning the alleged mis-

[3] See the first paragraph of section 641 (b) in footnote 1 to § 31.2.

conduct, he may present a motion in writing to the collector asking that the statement or charges be made more specific, setting forth in such motion in what specific respect the statement of charges leaves him in doubt and describing the particular language of the statement of charges as to which additional information is needed. If in the opinion of the collector such information is reasonably necessary to enable the accused to prepare his defense, the collector shall furnish the accused with an amended statement of charges giving the needed information.

(9) *Service of other papers.* After notice of the charges has been duly served, all other papers in the case, including notice of the time and place of the hearing, shall be served by:

(i) Delivering the same to the accused personally if an individual; or if a corporation, association, or partnership, to any officer or member thereof; or

(ii) Leaving them at the office of the accused, or of such officer or member, with his clerk or with a person in charge thereof; or

(iii) Depositing them in a United States post office or post-office box, enclosed in a sealed envelope, plainly addressed to such accused, or to such member or officer, at the address under which the accused is licensed or at the last known address of the accused, or such member or officer.

(iv) When the accused, whether an individual, corporation, association, or partnership, is represented by an attorney, by service upon the attorney in the manner provided for in subdivision (i), (ii), or (iii) of this subparagraph for service on the accused personally.

(10) *Copies filed with Commissioner.* Copies of all papers in the case, including the notice of charges, and each notice of the time and place of any hearing, shall be sent promptly by the collector to the Commissioner.

(11) *Hearing.* The hearing shall be before the collector or other chief officer of the customs, who shall provide a competent reporter to make the record of the hearing. If a competent reporter is not available to the collector, he shall request the Commissioner to furnish one for the hearing or to permit the use of available appropriated funds to hire the services of a reporter. The Commissioner shall designate an officer to represent the Government at the hearing and to participate in the presentation of testimony. The collector may designate a member of his staff to assist in the proceedings. The accused or his attorney shall have the right to examine all exhibits introduced at the hearing. Pursuant to order of the collector giving due notice to the parties, depositions upon oral or written interrogatories may be taken by either party for use at the hearing before any officer duly authorized to administer oaths for general purposes or in customs matters.

(12) *Submittals.* After conclusion of the reception of the evidence, the collector shall by rule afford the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor as contemplated by section 8 (b) of the Administrative Procedure Act (5 U. S. C. 1007 (b)).

(13) *Decision by the collector.* After compliance with subparagraph (12) of this paragraph the collector shall make his recommended decision in the case and certify the entire record to the Secretary of the Treasury. The collector shall recommend to the Secretary the dismissal of the charges when in his opinion the charges have not been proved. The collector shall recommend to the Secretary that the license be suspended or revoked if in the opinion of the collector such action is warranted by the record. The collector's decision shall conform with the requirements of section 8 of the Administrative Procedure Act (5 U. S. C. 1007).

(14) *Decision by Secretary of the Treasury.* Upon receipt of the record, the Secretary of the Treasury will afford the parties a reasonable opportunity to make such additional submittals as may then be required by section 8 (b) of the Administrative Procedure Act (5 U. S. C. 1007 (b)) and by the circumstances of the case. Thereafter the Secretary will make his decision.

(15) *Dismissal subject to new proceedings.* If the evidence at the hearing indicates that a proper disposition of the case cannot be made on the basis of the charges preferred, the Secretary may instruct the collector to file appropriate charges as a basis for new proceedings.

(16) *Immaterial mistakes.* The deciding officer shall disregard an immaterial misnomer of a third person, an immaterial mistake in the description of any person, thing, or place, or the ownership of any property, a failure to prove immaterial allegations in the description of the accused's conduct, or any other immaterial mistake in the statement of charges.

(17) *Proof, partial.* If the deciding officer finds that a part of the charges in the statement of charges is not sufficiently proved but that the residue thereof is so proved, he may base his decision on any facts established by the evidence which are grounds for suspension or revocation of the license and which are substantially charged by the said residue of the statement of charges.

(18) *Default.* No decision by default shall be made against an accused broker except upon evidence submitted on behalf of the Government.

(19) *Notice of suspension or revocation.* If the Secretary of the Treasury in the exercise of his discretion issues his order of suspension or revocation of the license of the accused, notice thereof shall be given by the Commissioner to the heads of all interested bureaus, offices, and divisions of the Treasury Department and to other interested departments and agencies of the Government in such manner as the Commissioner may determine. Except as provided for on appeal pursuant to section 641 (b), Tariff Act of 1930, as amended, such person will not thereafter be recognized as a customhouse broker during the period of suspension or revocation of his license.

(20) *Reopening.* Any customhouse broker who has been suspended or whose license has been revoked may make written application to the collector to have the order of suspension or revocation set aside or modified upon the ground (i) of newly discovered evidence, or (ii) that important evidence is now available which the applicant was unable to produce at the original hearing by the exercise of due diligence. Every such application shall be filed with the collector in duplicate. Such application must set forth specifically the precise character of the evidence to be relied upon in its support and shall state the reasons why the applicant was unable to produce it when the original charges were heard. If the collector after due consideration of the application shall deem it sufficiently meritorious to warrant a hearing, he shall so recommend to the Secretary, who may order the taking of additional testimony before the collector. The collector shall set a time and place for such hearing, and give due notice thereof to the applicant. The procedures governing the hearing and decision will be the same as those governing the original proceeding.

(21) *Notice of reinstatement.* In the event that the Secretary shall issue an order vacating or modifying the prior order of suspension or revocation, notice thereof shall be given to all those to whom notice of the original order of suspension or revocation was sent.

(22) *Saving provision.* Any proceeding for revocation or suspension of a license instituted prior to the effective date of this section shall be governed by the provisions of 31 CFR 11.10 in force at the time the proceeding was instituted: *Provided, however,* That if in the course of the proceeding there is taken any action that is authorized by the provisions of 31 CFR 11.10 governing the proceedings, but is not authorized by this section or any intervening amendment of 31 CFR 11.10, said action shall not constitute grounds for disturbing any order thereafter made in the proceeding, unless (i) it is shown that the action was in derogation of substantive rights and not merely procedural rights; and (ii) upon occurrence of the action the respondent made timely objection supported by his reasons and the objection was overruled: *Provided further,* That adherence may be had to this section pursuant to stipulation of the parties.

§ 31.12 Cancellation of licenses.

(a) Any corporation, association, or partnership which is licensed as a customhouse broker shall immediately notify the collector of each district in which it is licensed to transact business in the event it ceases to have at least two officers or members who are licensed individually as customhouse brokers and who exercise responsible supervision and control of the transaction of the customs business of the licensed organization. Collectors shall report to the Commissioner all cases wherein the required number of officers or members of any licensed corporation, association, or partnership have ceased to be qualified as customhouse brokers and the deficiency has continued for more than 60 days. The Commissioner, in such cases, will notify the corporation, association, or partnership that its license has been revoked in accordance with the requirement of section 641 (a),

Tariff Act of 1930, as amended.[4] A copy of such notice shall be sent by the Commissioner to the collector.

(b) A customhouse broker's license may be canceled upon written application to the Commissioner and surrender of the license certificate, but before granting the request, inquiry shall be made by the Commissioner to ascertain whether it has been made in order to evade proceedings for revocation or suspension of the license, in which event the request shall be denied, unless the Secretary of the Treasury shall otherwise order.

(c) Notwithstanding the provisions of paragraph (b) of this section, a customhouse broker's license may be canceled "with prejudice" upon written application to the Commissioner and surrender of the license certificate. The effect of a cancellation "with prejudice" is in all respects the same as if the license had been revoked for cause pursuant to the provisions of § 31.11.

§ 31.13 Licenses issued under prior acts of Congress.

Licenses issued under prior acts of Congress shall continue in force and effect in accordance with the provisions of section 641 (c), Tariff Act of 1930, as amended.[5]

§ 31.14 Appeal from the Secretary's decision.

An appeal from any order of the Secretary of the Treasury suspending or revoking a license may be taken by any customhouse broker in accordance with the provisions of section 641 (b), Tariff Act of 1930, as amended.[6]

§ 31.15 Records of the Commissioner.

(a) *Maintenance.* The Commissioner will keep such rosters and other records as may be necessary to perform his functions under this part.

(b) *Availability.* (1) The Commissioner, on request, will furnish information to any person as to whether any specified person is a customhouse broker.

(2) There are available to public inspection at the office of the Commissioner:

(i) The roster of all persons licensed as customhouse brokers pursuant to amended section 641, Tariff Act of 1930.

(ii) The final opinion or order in the adjudication of any case in which revocation of any license was sought, provided the licensee (or former licensee) expressly consents to publication.

(3) Matters of official record pertaining to the licensing of customhouse brokers, to persons properly and directly concerned.

(4) The official records pertaining to the revocation (or the proposed revocation) of any license, and to the investigation of any applicant therefor, constitute confidential information, except as provided for in paragraph (b) (2) and (3) of this section. These records are held confidential for these good causes:

(i) Publication is capable of injuring a licensee or former licensee without furthering the public interest.

(ii) Much of the information is elicited without the aid of the subpoena power on the assurance that the sources will be protected.

[4] See the third sentence of section 641 (a) in footnote 1 to § 31.2.

[5] See section 641 (c) in footnote 1 to § 31.2.

[6] See the second paragraph of section 641 (b) in footnote 1 to § 31.2.

PART 32—TRADE FAIRS

Sec.

32.1 Definitions.
32.2 Invoices; marking; bond.
32.3 Entry; appraisement; procedure.
32.4 Compliance, provisions of Plant Quarantine Act of 1912, and Federal Food, Drug, and Cosmetic Act.
32.5 Detail of customs officers to protect revenue; expenses.
32.6 Disposition of articles entered for fairs; entry or transfer; destruction; abandonment, voluntary or mandatory; exportation.

AUTHORITY: §§ 32.1 to 32.6, inclusive, issued under R.S. 161, as amended, 251, secs. 623, 624, 46 Stat. 759, as amended, secs. 2–7, 73 Stat. 18, 19, sec. 101, 76 Stat. 72; 5 U.S.C. 22, 19 U.S.C. 66, 1623, 1624, 1751–1756, Gen. Hdnote. 11, Tariff Schedules of the United States.

§ 32.1 Definitions.

(a) *The Act.* The term "the Act" means the Trade Fair Act of 1959.[1]

(b) *Fair.* The term "fair" means a fair, exhibition, or exposition designated by the Secretary of Commerce pursuant to the Trade Fair Act of 1959.

(c) *Fair operator.* The term "fair operator" means the party named by the Secretary of Commerce as the operator of the fair.

---

[1] SECTION 1. *Short title.* This Act may be cited as the "Trade Fair Act of 1959".

SEC. 2. *Designation of fairs.*

(a) *In general.* When the Secretary of Commerce is satisfied that the public interest in promoting trade will be served by allowance of the privileges provided for in this Act to any fair to be held in the United States, he shall so advise the Secretary of the Treasury, designating (1) the name of the fair, (2) the place where the fair will be held, (3) the date when the fair will open and the date when it will close, and (4) the name of the operator of the fair.

(b) *Definitions.* For purposes of this Act—

(1) The term "fair" means any fair, exhibition, or exposition designated by the Secretary of Commerce pursuant to this section.

(2) The term "closing date" in the case of any fair means the date designated pursuant to subsection (a)(3) as the date when the fair will close, or (if earlier) the date on which such fair actually closes.

(c) *Regulations.* The Secretary of Commerce may prescribe such regulations as he deems necessary or appropriate to carry out the provisions of this section.

SEC. 3. *Entry of articles for fairs.* Any article imported or brought into the United States—

(1) Which is in continuous customs custody, covered by a customs exhibition bond, or in a foreign trade zone, and

(2) On which no duty or internal-revenue tax has been paid, may, without payment of any duty or internal-revenue tax, be entered under bond under this section for the purpose of exhibition at a fair, or for use in constructing, installing, or maintaining foreign exhibits at a fair.

SEC. 4. *Disposition of articles entered for fairs.*

(a) *Entry under general customs laws, etc.* At any time before, or within 3 months after, the closing date of any fair, any article entered for such fair under section 3 may be sold or otherwise disposed of within, or may be removed from, the area of such fair. This subsection shall apply only if, before such disposition or removal—

(1) The article, after the entry for such fair under section 3, has been entered under any provision of the customs laws, and

(2) Any applicable duties and internal-revenue taxes are paid on such article in its condition and quantity, and at the rate in effect, at the time of such entry as if such article were imported or brought into the United States at the time of such entry.

(b) *Disposition without payment of duty.* At any time before, or within 3 months after, the closing date of any fair, any article entered for such fair under section 3 may, without the payment of any duties or internal-revenue taxes, be—

(1) Exported,

(2) Transferred from such fair to other customs custody status or to a foreign-trade zone.

(3) Destroyed, or

(4) Abandoned to the Government.

(c) *Mandatory abandonment to Government.* If any article entered under section 3 is still in customs custody, under such entry, at the expiration of 3 months after the closing date of the fair for which it was entered, such article shall thereupon be regarded as an article abandoned to the Government and shall be subject to sale or destruction of the article and disposition of the proceeds of sale in the manner provided for in sections 491, 492, and 493 of the Tariff Act of 1930. For purposes of this subsection, any duties or internal-revenue taxes on the article shall be computed on the basis of its condition and quantity at the time it becomes subject to sale.

(d) *Period for performance of certain acts.* Whenever any article entered under section 3 is transferred pursuant to subsection (b)(2) or entered under subsection (a), the period prescribed for the performance of any act required by the provision governing the status to which the article is transferred, or under which the article is entered, shall run from the date of such transfer or entry.

SEC. 5. *Marking, packaging, and labeling.*

(a) *Customs laws.* Articles entered under section 3 shall not be subject to any marking

(d) *Port.* The term "port" means the port at which the fair is to be held or, if the fair is not to be held within the limits of a port, the port nearest to the location of the fair which is in the same customs collection district as the fair.

(e) *Collector.* The term "collector" means the collector, or deputy collector in charge, of the port as defined above.

(f) *Closing date of the fair.* The term "closing date of the fair" means the date designated by the Secretary of Commerce as the date when the fair will close (which date is subject to extension by the said Secretary), or, if the fair closes earlier, the date on which the fair actually closes.

(g) *Articles for exhibition.* The term "articles for exhibition" includes, but is not limited to, pamphlets, brochures, and explanatory material in reasonable quantities relating to exhibits at a fair.

§ 32.2 Invoices; marking; bond.

(a) Articles intended for exhibition under the provisions of the Act and valued at over $500 are subject to the usual special customs invoice requirements if of a class for which such invoices are required under the Tariff Act of 1930, as amended, and the regulations in this chapter. The invoices shall be on either customs Form 5515 or on foreign service Form 138 and shall contain the information prescribed under section 481 of the Tariff Act of 1930.

(b) The marking requirements of the Tariff Act of 1930, as amended, and the regulations promulgated thereunder will not apply to articles entered under the regulations in this part except when such articles are entered for consumption, in which case they shall be released from customs custody only upon a full compliance with the marking requirements of the tariff act, as amended, and the regulations promulgated thereunder.

(c) The packaging, marking, and labeling requirements of the internal-revenue laws and of the Federal Alcohol Administration Act will not apply to articles entered under the regulations in this part, except (1) that any article failing to comply with such requirements shall be conspicuously marked prior to exhibition "Not labeled or packaged as required by law—not for sale", and (2) when any such article is withdrawn for consumption, it shall be released from customs custody only upon a full compliance with such packaging, marking, and labeling requirements.

(d) The fair operator shall furnish for the approval of the collector a bond in the following form and in an amount to be determined by the collector:

TRADE FAIR BOND

Know all men by these presents, That ----------, of ----------, as principal, and ----------, of ----------, and ----------, of ----------, as sureties, are held and firmly bound unto the United States of America in the sum of ------ dollars ($ ------), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this ------ day of ----------, 19--.

Whereas, pursuant to the provisions of the Trade Fair Act of 1959, Public Law 86–14, approved April 22, 1959, the Secretary of Commerce has approved an application by the principal hereon for the operation of a fair to be known as ----------

(Insert exact name of fair)

at ----------; and

(City and State)

Whereas, pursuant to the foregoing Act, imported articles may be imported or brought into the United States without the payment of duties, taxes, fees, charges, or exactions, for purposes of exhibition at the designated fair, or for use in constructing, installing, or maintaining foreign exhibits at such fair, under such regulations as the Secretary of the Treasury shall prescribe;

Now, therefore, the condition of this obligation is such, that—

(1) If the above-bounden principal shall comply in all respects with the provisions of the foregoing Act and the regulations issued by the Secretary relating to the exhibition or use of any article imported or brought into the United States for the designated fair; and shall receive for exhibition or use at such fair only such articles as may be permitted by law and regulations to be deposited therein; and shall safely keep or use the same therein all in accordance with the purposes authorized by law, and shall not remove, nor suffer to be removed, any article from the fair premises without lawful permit and without the presence of the customs officer in charge;

(2) And if the above-bounden principal shall pay to the collector of customs, when demanded by him, all unpaid duties, taxes, fees, charges, or exactions found legally due in connection with all articles entered or brought into the United States for the fair under the provisions of the designated Act and charged against this bond; and if in respect of any of the articles released from customs custody shall redeliver or cause to be redelivered to the order of the collector of customs, upon proper demand made at any time, any and all articles found not to comply with the law and regulations governing their admission into the commerce of the United States, and shall, after proper notice, mark, label, clean, fumigate, destroy, export, and do any and all other things in relation to said articles that may be required to secure the protection of the revenue and compliance with the Trade Fair Act referred to in the recital clause of this obligation and with all applicable customs and related laws; it being expressly understood and agreed that the liability under this bond shall extend to all cases where any of the articles entered for exhibition or use are lost or stolen, whether or not the said loss or theft shall result from the fault of said principal;

(3) And if the above-bounden principal shall pay monthly to the collector of customs, the actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody of the imported articles, together with the compensation of the customs officers and employees on duty at or assigned to the fair premises in connection with the accounting for, custody of, and supervision over, the articles entered pursuant to the designated Act, including overtime compensation of customs officers and employees assigned to duty at night or on Sunday or a holiday;

(4) And if the above-bounden principal, when an article is entered from the Fair for exportation, shall cause the said article to be actually exported from the United States and not relanded therein, and if proof of exportation from the United States be furnished to the said collector in the form and within the time required by law or regulations, or within any lawful extension of such time; or in lieu of exportation, if the said article shall be destroyed or abandoned within the period fixed by law, or, in default thereof, if the obligors shall pay to the collector the full amount of duties, taxes, fees, charges, and exactions which may be found legally due on the said articles;

(5) And if the said principal shall deliver to the collector of customs all the documents and evidence as may be required in connection with the entry of the articles at the designated fair, and in the form and within the time required by law or regulations, or any lawful extensions thereof, and shall comply with all other requirements of law and regulations;

Then this obligation shall be void; otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

---------- (Name) (Address)

---------- (Name) (Address) ---------- (Principal) [SEAL]

---------- (Name) (Address)

---------- (Name) (Address) ---------- (Surety) [SEAL]

---------- (Name) (Address)

---------- (Name) (Address) ---------- (Surety) [SEAL]

---

requirements of the customs laws, except that when any such article is entered for consumption under section 4 it shall not be released from customs custody until the marking requirements of the customs laws have been complied with.

(b) *Internal-revenue laws, etc.* Articles entered under section 3 shall not be subject to the packaging, marking, or labeling requirements of the internal-revenue laws or of the Federal Alcohol Administration Act, except that any such article failing to comply with such requirements—

(1) Shall be conspicuously marked prior to exhibition "Not labeled or packaged as required by law—not for sale", and

(2) When entered for consumption under section 4, shall not be released from customs custody until such packaging, marking, and labeling requirements have been complied with.

The application of the permit requirements of the Federal Alcohol Administration Act and the occupational taxes prescribed by chapter 51 of the Internal Revenue Code of 1954 shall be determined without regard to this Act.

SEC. 6. *Responsibilities of fair operator.*—(a) *Sole consignee and importer.* Each fair operator designated by the Secretary of Commerce pursuant to section 2 shall be deemed the sole consignee and importer of all articles entered under section 3 for the fair for which such operator has been designated.

(b) *Expenses of customs custody, etc.* The actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, custody, abandonment, destruction, or release of articles entered under section 3, together with the necessary charges for salaries of customs officers and employees in connection with the accounting for, custody of, and supervision over, such articles, shall be reimbursed to the United States by the operator of the fair for which they are entered. Receipts from such reimbursements shall be deposited as refunds to the appropriation from which paid, in the manner provided for in section 524 of the Tariff Act of 1930, as amended (19 U.S.C., sec. 1524).

SEC. 7. *Regulations.* The Secretary of the Treasury may prescribe such regulations as may be necessary or appropriate to carry out the provisions of this Act (other than section 2 thereof). (P.L. 86–14; 73 Stat. 18)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the ____(*)____ of the corporation named as principal in the within bond; that _____, who signed the said bond on behalf of the principal, was then _____ of the said corporation; that I know his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

_____ [SEAL]

*(May be executed by the secretary, assistant secretary, or other corporate officer.)

§ 32.3 Entry; appraisement; procedure.

(a) All entries under the regulations in this part shall be made at the port in the name of the fair operator which shall be deemed for customs purposes the sole consignee of the merchandise entered under the Act and which shall be held responsible to the Government for all duties and charges due the United States on account of such entries; but, in the case of merchandise entered under the general customs laws from a fair, the entry may be made in the name of any person duly authorized in writing by the fair operator to make such entry.

(b) Articles to be entered under the regulations in this part which arrive at ports other than "the port", as defined in this part, shall be entered for immediate transportation without appraisement to the latter port in the manner prescribed in Part 18 of this chapter.

(c) Upon the arrival at the port of articles to be entered under the regulations in this part, they shall be entered on a special form of entry to read substantially as follows:

ENTRY FOR EXHIBITION

Entry No. _____

Entry at the port of _____ for articles consigned or transferred to _____ (Fair operator) under _____ I.T. No _____ ex S.S _____ from _____ on the _____ day of _____ 19____, for exhibition purposes under the Trade Fair Act of 1959.

Mark	Number	Package and contents	Quantity	Invoice value

_____ (Fair operator)

By _____

(d) Upon such entry being made, the collector shall issue a special permit for the transfer of the articles covered thereby to the buildings in which they are to be exhibited or used, or, in the discretion of the collector, to the appraiser's stores for examination and subsequent transfer to the buildings in which they are to be exhibited or used. The articles shall be tentatively appraised prior to their exhibition or use. No imported exhibit entered under the regulations in this part shall be removed from or used on the fair premises unless it is first entered in accordance with § 32.6(a), and no imported construction, installation, or maintenance material entered under these regulations shall be removed from the fair premises except in accordance with that section; and such exhibits and materials shall be kept segregated from domestic articles and from imported articles entered under the provisions of the general customs laws and released from customs custody thereunder.

(e) If for any reason articles imported or brought in for entry under the regulations in this part are not upon their arrival to be delivered immediately at a fair building, the fair operator should so indicate to the collector in writing, who will cause such articles to be placed in a bonded warehouse under a "general order permit" at the risk and expense of the fair operator. At any time within one year from the date such articles are imported or brought in, they may be entered under these regulations for a fair, or entered under the general tariff law, or for exportation. If not so entered within such period, they will be regarded as abandoned to the Government.

(f) Any article imported or brought into the United States which is in continuous customs custody, covered by a customs exhibition bond, or in a foreign-trade zone, on which no duty or internal-revenue tax has been paid, may be entered under bond under the regulations in this part for the purpose of exhibition at a fair, or for use in constructing, installing, or maintaining foreign exhibits at a fair. In each case an entry under paragraph (c) of this section shall be filed, which entry shall supersede any previous entry. No bond other than that specified in § 32.2(d) shall be required. Articles which have been entered under schedule 8, part 5C, Tariff Schedules of the United States, may not be entered under the regulations in this part for a fair.

§ 32.4 Compliance, provisions of Plant Quarantine Act of 1912, and Federal Food, Drug, and Cosmetic Act.

The entry of plant material subject to restriction under the Plant Quarantine Act of 1912, as amended (7 U.S.C. 151–164a, 167), shall not be permitted except under permits issued therefor by the Plant Quarantine Division of the Agriculture Research Service, Department of Agriculture, and in accordance with the plant quarantine regulations. The entry of food products shall conform to the requirements of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301 et seq.), and regulations issued thereunder.

§ 32.5 Detail of customs officers to protect revenue; expense.

(a) The collector shall detail an officer to act as his representative at the fair and shall station inside the buildings as many additional customs officers and employees as may be necessary to properly protect the revenue.

(b) All actual and necessary charges for labor, services, and other expenses in connection with the entry, examination, appraisement, custody, abandonment, destruction, or release of articles entered under the regulations in this part, together with the necessary charges for salaries of customs officers and employees in connection with the accounting for, custody of, and supervision over, such articles, shall be reimbursed by the fair operator to the Government, payment to be made monthly to the collector for deposit to the appropriation from which paid.

§ 32.6 Disposition of articles entered for fairs: entry or transfer; destruction; abandonment, voluntary or mandatory; exportation.

(a) Any article entered under the regulations in this part may be entered for consumption, for warehouse, or under any other provision of the customs laws, or for another fair, or may be transferred to other customs custody status or to a foreign-trade zone, or abandoned to the Government, or destroyed under customs supervision, or exported, at any time before, or within three months after, the closing date of the fair (including any extension of such closing date). Upon entry of such articles under a provision of the customs laws, or at the expiration of three months after the closing date of the fair (including any extension) in the case of articles not previously entered or transferred, they shall be appraised. Such appraisement shall be final in the absence of an appeal to reappraisement, as provided in section 501 of the Tariff Act of 1930, as amended. In the case of any article entered under a provision of the customs laws or for another fair, or transferred to other customs custody status or to a foreign-trade zone, the period prescribed for the performance of any act required by the provision governing the status under which the article is entered, or to which it is transferred, shall be computed from the date of such entry or transfer.

(b) At any time before, or within three months after, the closing date of the fair, including any extension, any article entered hereunder may be abandoned to the Government or destroyed under customs supervision, upon compliance with the regulations provided for in § 15.4 of this chapter, so far as applicable in the case of articles abandoned under section 563(b) of the Tariff Act of 1930, as amended, or destroyed under section 557(c) of the Tariff Act of 1930, as amended.

(c) Articles which are entered from a fair under the regulations in this part for entry at another fair under such regulations shall be retained in continuous customs custody.

(d) Any article entered hereunder from a foreign-trade zone status of "zone restricted merchandise" which is entered for consumption from a fair is subject to the provisions of item 804, Tariff Schedules of the United States.

(e) Any article entered under the regulations in this part which has not been entered under a provision of the customs laws or for another fair, exported, or transferred to other customs custody status or to a foreign-trade zone, or which has not been abandoned to the Government or destroyed under customs supervision, before the expiration of three months after the close of

the fair (including extension) shall be regarded as abandoned to the Government. Such article shall be subject to sale or destruction and the proceeds of sale disposed of in the manner provided in sections 491, 492, and 493, of the Tariff Act of 1930, as amended, and the regulations promulgated thereunder. Any duties or internal-revenue taxes on such article shall be computed on the basis of its condition and quantity at the time it becomes subject to sale.

PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

Sec.

54.2 Free entry of personal and household effects of certain classes of persons in the service of the United States, or of their families, and of evacuees.

ALUMINA

54.4 Alumina to be used in producing aluminum.

METAL ARTICLES IMPORTED TO BE USED IN REMANUFACTURE BY MELTING

54.5 Scope of exemptions; nondeposit of estimated duty.

54.6 Proof of intent; bond; proof of use; liquidation.

MANUFACTURED SUGAR, ETC.

54.7 Sugar, sirups, and molasses to be used as livestock feed, or in the production of livestock feed, or for the distillation of alcohol.

AUTHORITY: §§ 54.2 to 54.7 issued under sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 19 U.S.C. 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Additional authority is cited in parentheses following the sections affected.

§ 54.2 Free entry of personal and household effects of certain classes of persons in the service of the United States, or of their families, and of evacuees.

(a) Under section 1 of the Act of June 30, 1955 (50 U.S.C. App. 801), free entry may be accorded to the personal and household effects (with the limitation on alcoholic beverages and tobacco products prescribed by paragraph (c) of this section) of any person in the service of the United States who returns to the United States upon the termination of assignment to extended duty at a post or station outside the customs territory of the United States, or of returning members of his family who have resided with him at such post or station, or of any person evacuated to the United States under Government orders or instructions, provided such effects are entered or withdrawn from warehouse, for consumption during the effective period of such Act.

(b) The privilege does not apply to articles imported for sale, or for the account of any person not specified in the act, but the term "personal effects" as used in the statute is not confined to that class of articles described in item 812.10, Tariff Schedules of the United States; nor is any period of use, such as is prescribed by item 810.10, Tariff Schedules of the United States, applicable to household effects entered under this act.

(c) Not more than one wine gallon of alcoholic beverages and not more than one hundred cigars may be imported by any person under the act, except that no alcoholic beverages or cigars shall be accorded free entry under the act in addition to either of such products concurrently imported by the person in connection with his return to the United States and accorded free entry under item 813.30, 813.31, or 813.32, Tariff Schedules of the United States.

(d) Collectors of customs shall be satisfied in all cases that the effects imported free of duty under the act are the personal and household effects of the importer, particularly in those cases where the quantity of effects imported may appear to be an unreasonable quantity for personal or household use.

(e) Except as it may otherwise be deemed proper in accordance with the provisions of paragraph (f) or (g) of this section, no person, or member of his family, shall be allowed free entry of personal or household effects under the act where the person returns to the United States pursuant to Government orders or instructions which authorized him initially to proceed to a foreign post or station and return to the United States upon termination of temporary duty.

(f) The requirement of the act that the person "returns to the United States upon the termination of assignment to extended duty" shall be considered met upon the necessary proof being submitted that any one of the following cases is applicable:

(1) The person is returning from duty outside the customs territory of the United States of at least 140 days duration.

(2) The person is returning after the termination of an assignment to permanent duty at a post or station outside customs territory of the United States, regardless of the duration of the duty.

(3) The person returns to the United States under Government orders at any time after leaving the United States for extended duty of not less than 140 days outside the customs territory of the United States.

(4) The person, although not return-

into the United States within the re-

latter statement shall be based on ade-

(a) There shall be filed in connection

(4) The person, although not returning to the United States, is ordered by the Government agency involved from duty at a post or station outside the customs territory of the United States to duty at another post or station outside the customs territory of the United States necessitating the return to the United States of his personal and household effects.

(g) In any case where the limitation on the quantity of alcoholic beverages and tobacco products which may be exempted from duty and tax under paragraph (c) of this section, or the failure of the person to meet the requirement that he be returning from "extended duty", as explained in paragraph (f) of this section, will cause undue hardship to the person through no fault of his own, but rather because of the nature of his assignment or other hardship circumstances, the Commissioner of Customs, upon receipt of a request from the Government agency involved, may waive the limitation or the requirement, as the case may be, if he deems such waiver warranted by the facts.

(h) All articles for which free entry is claimed under the act shall be entered or withdrawn in accordance with the requirements prescribed by the Tariff Act of 1930. Collectors of customs shall accord free entry under the act upon the production of satisfactory proof that the articles are entitled to the benefits thereof. Customs Form 6061 may be used as a declaration and entry for articles granted exemption from duty and tax under the act when entry is made in the name of the person who is entitled to the benefits of the statute. Such declaration and entry shall be verified by the customs officer by an inspection of the owner's travel orders, unless other evidence is furnished which satisfies the collector that the effects were brought into the United States in connection with the person's return to the United States upon the termination of assignment to extended duty, as explained in paragraph (f) of this section, or in connection with the return of members of his family who have resided with him at such post or station, or in connection with the evacuation of a person to the United States under Government orders or instructions. If the collector accepts an inspection of the owner's travel orders as evidence that the effects were brought into the United States within the requirements of the act, the owner's travel orders shall be identified on the entry, which shall be handled like a free baggage declaration. The date of the person's last departure from the United States shall be indicated on the declaration and entry. The inward foreign manifest covering a shipment entered on customs Form 6061 shall be liquidated by noting thereon "Free on C. F. 6061, C. R. 54.2."

(i) No invoice shall be required for articles accorded free entry under the act.

(Secs. 481, 484, 498, 46 Stat. 719, 722, as amended, 728, as amended sec. 1, 56 Stat. 461, as amended; 19 U.S.C. 1481, 1484, 1498, 50 U.S.C. App. 301)

ALUMINA

§ 54.4 Alumina to be used in producing aluminum.

(a) Pursuant to item 907.15, Tariff Schedules of the United States, alumina, when imported for use in producing aluminum and entered, or withdrawn from warehouse, for consumption during the effective period of item 907.15 without the deposit of duty if the person making the entry or withdrawal from warehouse files therewith his declaration that the alumina was imported to be used in the production of aluminum and the collector is satisfied that the importer of the alumina had the declared intention at the time of importation. Liquidation of the entry covering the alumina shall be suspended until proof of use is furnished or the time allowed for the production thereof has expired.

(b) Within 3 years from the date of entry (in the case of warehouse entries as well as consumption entries) the importer shall submit in duplicate a certificate of the superintendent or manager of the plant in which the aluminum was produced that the alumina has actually been used in producing aluminum. A blanket certificate covering all purchases of alumina from a particular importer during a given period, or all such purchases with specified exceptions, may be accepted for this purpose, provided the importer shall furnish a statement showing in detail, in such manner as to be readily identified with each entry, the alumina which he sold to such producer of aluminum during such period. The latter statement shall be based on adequate and carefully kept records of the importer, which shall be open at all times to inspection by employees of the Customs Service and which shall be retained for a period of 3 years from the date of liquidation of the entry.

(c) Upon satisfactory proof of use of the alumina in the production of aluminum, the entries shall be liquidated free of duty. When such proof is not filed within 3 years from the date of entry or any extension of the period of the bond (see § 25.18(b) of the regulations of this chapter), the entry shall be liquidated dutiable under item 417.12, Tariff Schedules of the United States.

(Sec. 101, 76 Stat. 72; Item 907.15, Tariff Schedules of the United States)

METAL ARTICLES IMPORTED TO BE USED IN REMANUFACTURING BY MELTING

§ 54.5 Scope of exemptions; nondeposit of estimated duty.

(a) Articles in chief value of metal (except articles of copper, of lead, of zinc, or of tungsten, and not including metal-bearing materials, provided for in schedule 4, Tariff Schedules of the United States, or in part 1 of schedule 6 and not including unwrought metal provided for in part 2 of schedule 6) to be used in remanufacture by melting, and actually so used, shall be entitled to free entry upon compliance with § 54.6 of the regulations of this part, if entered or withdrawn from warehouse, for consumption during the effective period of item 911.10, Tariff Schedules of the United States.

(b) No deposit of estimated duty shall be required upon the entry, or withdrawal, for consumption of articles within the purview of paragraph (a) of this section if the collector is satisfied at the time of entry or withdrawal by written declaration of the importer that the merchandise was imported to be used in remanufacture by melting.

(Sec. 101, 76 Stat. 72; Item 911.10, Tariff Schedules of the United States)

§ 54.6 Proof of intent; bond; proof of use; liquidation.

Articles in chief value of metal, described in § 54.5(a) of the regulations of this part shall be admitted free of duty upon compliance with the following conditions:

(a) There shall be filed in connection with the entry[3] a statement of the importer that the articles are to be used in remanufacture by melting.

(b) If the articles are entered for consumption, there shall also be filed in connection with the entry a bond on customs Form 7551 or 7553. If the articles are entered for warehouse, the regular warehouse bond, customs Form 7555, shall be given and withdrawals shall be made on customs Form 7506. The liquidation of the consumption or warehouse entry shall be suspended pending proof of use or other disposition of the articles within the time prescribed by this section.

(c) Within 3 years from the date of entry (in the case of warehouse entries as well as consumption entries) the importer shall submit to the collector of customs at the port of entry a statement of the superintendent or manager of the plant at which the articles were used in remanufacture by melting, showing: (1) The name and location of the plant; (2) the entry number, date, and port of entry (if the person making the statement is not in possession of this information a reference to invoices, purchase orders, or other documents which will identify the shipment with the entry may be substituted); (3) the date or inclusive dates of the processing of the articles; and (4) a description of the processing in sufficient detail to enable the collector to determine whether such processing constituted a use in remanufacture by melting. In appropriate cases the processing of the articles covered by more than one entry may be included in one statement. The statement shall be based on adequate and carefully kept plant and import records, which shall be open at all times to customs agents or other employees of the Customs Service. The statement shall be in duplicate, one copy to be forwarded to the comptroller of customs.

(d) If satisfactory proof of use of the articles in remanufacture by melting is

[3] "In connection with the entry" means any time prior to liquidation of the entry or within the period during which a valid reliquidation may be completed (§ 25.18 (c)). Therefore, a claim for free entry under Item 911.10, Tariff Schedules of the United States, supported by a statement of intent may be filed at any time prior to the liquidation of the entry or within the period during which a valid reliquidation may be completed.

furnished within the prescribed time, the entry shall be liquidated without the assessment of duty on the articles covered by such proof. If such proof is not filed within 3 years from the date of entry, or the use does not warrant the classification claimed, the entry shall be liquidated without any exemption from duty under Item 911.10, Tariff Schedules of the United States.

(Sec. 101, 76 Stat. 72; Item 911.10, Tariff Schedules of the United States)

MANUFACTURED SUGAR, ETC.

§ 54.7 Sugar, sirups, and molasses to be used as livestock feed, or in the production of livestock feed, or for the distillation of alcohol.

(a) Sugars, sirups, and molasses, and articles provided for in items 155.20 to 155.31, inclusive, Tariff Schedules of the United States, when entered, or withdrawn from warehouse, for consumption to be used as livestock feed, or in the production of livestock feed, or for the distillation of alcohol, may be released without the payment of the additional duties provided for in item 901.00, Tariff Schedules of the United States, if there is filed with the entry or withdrawal a declaration of a person having knowledge of the facts that the sugars, sirups, molasses, or article was imported to be used as livestock feed, or in the production of livestock feed, or for the distillation of alcohol. Liquidation of the entry covering the merchandise shall be suspended until the proof of use provided for in paragraph (b) of this section is furnished or the time allowed for the production thereof has expired.

(b) Within 1 year from the date of the entry in the case of warehouse entries as well as consumption entries, or any extension of that period as hereinafter provided for, the importer shall furnish proof of use satisfactory to the collector that the imported sugars, sirups, molasses, or articles have been used as livestock feed, or in the production of livestock feed, or for the distillation of alcohol. The collector may, upon written application of the importer before the expiration of the initial or any extended period, extend the period for further periods of 1 year each, but not to exceed 5 years from the date of entry.

(c) When proof of use is not furnished within the 1 year period or any extension thereof provided for in paragraph (b) hereof, the entry shall be liquidated with assessment of additional duty at the rate provided for in item 901.00, Tariff Schedules of the United States.

(Sec. 101, 76 Stat. 72; item 901.00, Tariff Schedules of the United States)

PART 56—EXTENSIONS OF TIME PURSUANT TO PROCLAMATION OF THE PRESIDENT UNDER SECTION 318, TARIFF ACT OF 1930

MERCHANDISE IN GENERAL ORDER AND BONDED WAREHOUSES

Sec.

56.1 Periods of time prescribed in sections 491, 557, and 559, Tariff Act of 1930, as amended, extended; conditions.
56.2 Merchandise in general order.
56.3 Extension of bonds.

AUTHORITY: §§ 56.1 to 56.3 issued under secs. 318, 624, 46 Stat. 696, 759, sec. 101, 76 Stat. 72; 19 U.S.C. 1318, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States. Proc. 2948, Oct. 12, 1951; 3 CFR 1949–1953.

§ 56.1 Periods of time prescribed in sections 491, 557, and 559, Tariff Act of 1930, as amended, extended; conditions.

(a) Pursuant to authority contained in Proclamation No. 2948 (3 CFR, 1949–1953 Comp. p. 132), issued by the President on October 12, 1951, the 1-year period prescribed in section 491, Tariff Act of 1930, as amended, or the 3-year period prescribed in sections 557 and 559 of the said act, as amended, as the case may be, or any extension or further extension thereof heretofore granted under the authority of Proclamation No. 2599 of November 11, 1943 (3 CFR, 1943–1948 Comp. p. 13), as amended by Proclamation No. 2712 of December 3, 1946 (3 CFR, 1943–1948 Comp. p. 98), is hereby extended for 1 year in each case wherein such 1-year or 3-year period or any such previous extension thereof has expired on or after December 16, 1950, or shall have expired hereafter and during the continuance of the national emergency proclaimed on December 16, 1950 (Proclamation No. 2914, 3 CFR, 1949–1953 Comp. p. 99), and wherein the collector of customs concerned shall have been furnished with:

(1) If the merchandise is in general order, the written application of the consignee for extension and any evidence of identity required by § 56.2 (c); or

(2) If the merchandise is charged against an entry bond, the agreement of the principal and the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted, or a new bond with acceptable sureties to include the period of extension; or

(3) If the merchandise is charged against a carrier's bond, the agreement of the principal and the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted; and

(4) If the merchandise is in general order or charged against an entry bond, the certificate of the proprietor of the warehouse in which the merchandise is stored consenting to the extension, or certifying that all charges or amounts due or owing to the proprietor for the storage or handling of the merchandise up to the date of the beginning of the 1-year period of extension requested have been paid.

(b) Pursuant to the same authority and subject to the same conditions, such 1-year or 3-year period, as the case may be, is hereby extended for an additional period of 1 year each from and after the expiration of the immediately preceding extension if such expiration occurs during the continuance of the aforesaid national emergency.

§ 56.2 Merchandise in general order.

(a) Applications for extension or further extension of the 1-year period prescribed in section 491, Tariff Act of 1930, as amended, shall be made in each case by the consignee, in writing, and in substantially the following form, and shall be submitted, in duplicate, to the collector of customs at the port where the merchandise is stored:

_____, 19____
(Date)

THE COLLECTOR OF CUSTOMS
_____

SIR: In accordance with the provisions of Treasury Decision No. 52896, of December 28, 1951, application is hereby made for an extension (or further extension) of the 1-year period prescribed in section 491, Tariff Act of 1930, as amended, for 1 year in the case of the merchandise described below:

Quantity and description of the merchandise: _____
Name of port where imported: _____
Date of importation: _____
Present location of merchandise: _____
_____
(Address of warehouse where the merchandise is stored)
Additional information: _____
_____
_____
_____
(Here state whether any previous extension has been allowed or application made for

such extension and, if so, the details thereof)

(Name of consignee)

By ---
(Name and title)

The undersigned hereby consents to the granting of the 1-year extension requested herein, or

The undersigned hereby certifies that all charges or amounts due or owing to the undersigned for storage or handling of the merchandise described above up to the date of the beginning of the 1-year period of extension requested herein have been paid.

(Date)

(Warehouse proprietor)

By ---
(Name and title)

(b) If the merchandise concerned is stored in the public store, all charges or amounts due or owing to the Government for the storage or handling of the merchandise up to the date of the beginning of the 1-year period of extension requested shall be paid as a condition precedent to the granting of the extension.

(c) In connection with each application for extension, there shall be furnished, as evidence that the applicant is the consignee, the bill of lading or a duplicate thereof or a carrier's certificate covering the merchandise, but it will not be necessary that such evidence be furnished in connection with applications for any subsequent extensions when made by the same applicant.

(d) If the application is approved by the collector, he shall endorse the fact and date of his approval on both copies of the application, retain the original as his record of the transaction, and return the duplicate to the consignee for his records. If the application is disapproved by the collector, he shall retain both copies of the application on file in his office and advise the applicant in writing as to the reasons for his disapproval.

§ 56.3 Extension of bonds.

(a) In each case in which the merchandise remains charged against a carrier's bond, customs Form 3587, and an extension or further extension of the 1-year period prescribed in section 491, Tariff Act of 1930, as amended, is desired, there shall be furnished to the collector of customs at the port where the charge against the bond was made the agreement of the principal and sureties on such bonds in the following form:

EXTENSION OF CARRIER'S BOND

Whereas, in Treasury Decision No. 52896, of December 28, 1951, issued pursuant to authority contained in the President's Proclamation No. 2948, dated October 12, 1951, the 1-year period prescribed in section 491, Tariff Act of 1930, as amended, was extended for 1 year and further extended for additional periods of 1 year each from and after the expiration of the immediately preceding extension, provided, among other things, that in each case in which the merchandise remains charged against a carrier's bond the principal on such bond shall agree to the extension and shall furnish the agreement of the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted, and

Whereas, the carrier's bond described below was furnished in connection with the entry for transportation in bond indicated, and it is now desired to extend the liability under such bond for a period of 1 year from the date of maturity of the bond: [1]

Name of carrier: ---
Date of bond: ---
Date of approval: ---
Class and number of transportation in bond entry: ---
Dated: ---
Port where charge against bond was made: ---
Description of merchandise: ---
Date of importation: ---

Now, Therefore, This is to certify that ---, principal, and --- and ---, sureties on the carrier's bond referred to above, hereby stipulate and agree that their liability under said bond [1] shall continue unchanged and in full force and effect to the same extent as if no extension had been granted for a period of 1 year from the date of maturity of the bond.[1]

Witness our hands and seals this ----- day of ---, 19----.

Signed, sealed and delivered in the presence of—

(Name) (Address)

(Name) (Address)

[SEAL] ---
(Principal)

(Name) (Address)

(Name) (Address)

[1] Here insert the words "as extended" if a previous extension has been allowed.

[SEAL] ---
(Surety)

(Name) (Address)

(Name) (Address)

[SEAL] ---
(Surety)

(b) In each case in which the merchandise is covered by a warehouse entry bond on customs Form 7555, and an extension or further extension of the 3-year period prescribed in sections 557 and 559, Tariff Act of 1930, as amended, is desired, the principal on the bond, in order to obtain the benefit of such extension, shall furnish to the collector of customs at the port where the bond is on file an agreement in the following form:

EXTENSION OF WAREHOUSE ENTRY BOND

Whereas, in Treasury Decision No. 52896, of December 28, 1951, issued pursuant to authority contained in the President's Proclamation No. 2948, dated October 12, 1951, the 3-year warehousing period for imported merchandise prescribed in sections 557 and 559, Tariff Act of 1930, as amended, was extended for 1 year and further extended for additional periods of 1 year each from and after the expiration of the immediately preceding extension, provided, among other things, that in each case the principal on the entry bond shall furnish the agreement of the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted, and

Whereas, the warehouse entry bond described below was furnished in connection with the warehouse entry indicated, and it is now desired to extend the liability under such bond for a period of 1 year from the date of maturity of the bond: [1]

Port of ---
Bond No. ---- dated ---
Warehouse entry No. ---
Description of merchandise ---
Date of importation ---

Now, Therefore, This is to certify that ---, principal, and ---, sureties, on the warehouse entry bond referred to above, hereby stipulate and agree that their liability under said bond [1] shall continue unchanged and in full force and effect to the same extent as if no extension had been granted for a period of 1 year from the date of maturity of the bond.[1]

Witness our hands and seals this ----- day of ---, 19---.

Signed, sealed, and delivered in the presence of—

[1] Here insert the words "as extended" if a previous extension has been allowed.

[SEAL] ---
(Name) (Address)

(Principal)

(Name) (address)

By ---
(Name and official title)

(Name) (Address)

[SEAL] ---
(Surety)

(Name) (address)

By ---
(Name and official title)

(Name) (Address)

[SEAL] ---
(Surety)

(Name) (address)

By ---
(Name and official title)

(c) If the principal on a warehouse entry bond desires to furnish a new bond to include the period of extension or further extension in lieu of furnishing an agreement in the form prescribed in paragraph (b) of this section, the new bond shall be furnished on customs Form 7555 but with the words "3 years" appearing in conditions (1) and (2) of the form changed to read "4 years" or "5 years," and so forth, as the case may require.

(d) In cases in which the merchandise concerned was entered for warehouse and charged against a General Term Bond for Entry of Merchandise, customs Form 7595, or against a Blanket Smelting and Refining Bond in the form prescribed in Treasury Decision 50267, as modified by Treasury Decision 52403, the agreement of the principal and sureties on the bond shall be furnished to the collector of customs in the following form:

EXTENSION OF GENERAL TERM BOND FOR ENTRY OF MERCHANDISE [1a]

Whereas, in Treasury Decision No. 52896, of December 28, 1951, issued pursuant to authority contained in the President's Proclamation No. 2948, dated October 12, 1951, the 3-year warehousing period for imported merchandise prescribed in sections 557 and 559, Tariff Act of 1930, as amended, was extended for 1 year and further extended for additional periods of 1 year each from and after the expiration of the immediately pre-

[1a] Substitute the words "Blanket Smelting and Refining Bond" if the merchandise was charged against such a bond.

ceding extension, provided, among other things, that in each case the principal on the entry bond shall furnish the agreement of the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted, and

Whereas, the bond described below was furnished by _____
(Name of principal on the bond)
and accepted by the Government of the United States to cover, among other things, the entry of imported merchandise for warehouse or rewarehouse at the port(s) of _____, during the period beginning on _____, 19____, and ending on _____, 19____,[2]

General Term Bond for Entry of Merchandise [2a] in the sum of _____, executed by _____, as principal, and _____ and _____, as sureties, under date of _____, 19____, and approved by the Bureau of Customs under date of _____, 19____; and

Whereas, certain imported merchandise was entered for warehouse or rewarehouse at the ports and under the entries indicated below and such entries were charged against the bond described above:

Name of port	Entry No.	Date of Entry
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

and

Whereas, _____
(Name of principal on bond)
desires, as to such merchandise, to obtain an extension of the period during which it may remain in warehouse for 1 year from and after the expiration of the 3-year period prescribed in sections 557 and 559, Tariff Act of 1930, as amended, or to obtain a further extension for an additional period of 1 year from and after the expiration of any immediately preceding extension which may have been granted, and to continue the liability therefor under the bond for such 3-year period and to extend the liability under the bond to cover such extension or further extension of 1 year.

Now, Therefore, This is to certify that _____, principal, and _____, and _____, sureties, on the bond described above, hereby stipulate and agree that, in consideration of the granting of an extension or further extension of 1 year of the 3-year period during which the merchandise may remain in warehouse, their liability under the bond as to such merchandise shall cover such 1-year extension or further extension, together with the original 3-year period.

Witness our hands and seals this_____ day of_____, 19____.

Signed, sealed and delivered in the presence of—

_____
(Name) (Address)
[SEAL] _____
(Principal)
_____
(Name) (Address)
By _____
(Name and official title)
_____
(Name) (Address)
[SEAL] _____
(Surety)
_____
(Name) (Address)
By _____
(Name and official title)
_____
(Name) (Address)
[SEAL] _____
(Surety)
_____
(Name) (Address)
By _____
(Name and official title)

A sufficient number of copies of this agreement shall be furnished to permit retention of the original in the Bureau and the filing of one copy at each of the ports where the entries involved were filed.

(e) There shall also be furnished with either of the agreements or the new bond required in paragraphs (b), (c), and (d) of this section a statement of the proprietor of the warehouse in which the merchandise concerned is stored, consenting to the extension or further extension covered by the agreement or new bond, or certifying that all charges or amounts due or owing to the proprietor for storage or handling of the merchandise concerned up to the date of the beginning of the 1-year period of extension or further extension covered by the agreement or new bond have been paid. Such statements shall not be required in cases in which the principal on the agreement or new bond is the proprietor of the warehouse in which the merchandise is stored.

PHILIP NICHOLS, Jr.,
Commissioner of Customs.

Approved: December 26, 1963.

JAMES POMEROY HENDRICK,
Acting Assistant Secretary of the Treasury.

[F.R. Doc. 63-13458; Filed, Dec. 30, 1963; 8:45 a.m.]

---

[2] If the merchandise was charged against a Blanket Smelting and Refining Bond, delete the words "during the period beginning on _____, 19____, and ending on _____, 19____," and substitute therefor the words "on and after _____, 19____".